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NOMINATION OF THOMAS W. FREDERICKS TO ASSISTANT SECRETARY OF THE INTERIOR

CONTENTS

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

THE NOMINATION OF THOMAS W. FREDERICKS TO BE AN
ASSISTANT SECRETARY OF THE INTERIOR

JULY 1, 1980

WASHINGTON, D.C.



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1980

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NOMINATION OF THOMAS W. FREDERICKS TO
ASSISTANT SECRETARY OF THE INTERIOR

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

SEVENTY-SIXTH CONGRESS

FOURTH SESSION

SELECT COMMITTEE ON INDIAN AFFAIRS

JOHN MELCHER, Montana, Chairman

DANIEL K. INOUE, Hawaii
DENNIS DeCONCINI, Arizona

WILLIAM S. COHEN, Maine
MARK O. HATFIELD, Oregon

MAX I. RICHMAN, Staff Director

(II)

1919

WASHINGTON, D.C.



U.S. GOVERNMENT PRINTING OFFICE

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1919

NOMINATION OF THOMAS W. FREDERICKS TO ASSISTANT SECRETARY OF THE INTERIOR

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(III)

executive director of the Council on Indian Affairs of the State of Colorado, the Seminole Tribe of Florida, the Fort Mojave Indian Tribe, the Crow Tribal Council, the Blackfeet Tribe, the Sandpaper Band community of Minnesota, the National American Indian Gentlemen's Association, the Fort Belknap Community Council, the Cheyenne River Sioux Tribe, and the National Indian Board of Alcohol and Drug Abuse.

In addition, I would like to submit for the record the following communications from Senator George McGovern and Senator Gary Hart in support of the nomination of Mr. Fredericks and of his staff.

[The material follows. Testimony resumes on p. 34.]

**NOMINATION OF THOMAS W. FREDERICKS TO
ASSISTANT SECRETARY OF THE INTERIOR**

TUESDAY, JULY 1, 1980

**U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.**

The committee met, pursuant to notice, at 1:32 p.m., in room 6226, Dirksen Senate Office Building, Hon. John Melcher (chairman of the committee) presiding.

Present: Senators Melcher and Burdick.

Staff present: Max Richtman, staff director.

Senator MELCHER. The committee will come to order.

The purpose of this hearing is to consider the nomination of Thomas W. Fredericks to be the Assistant Secretary of Indian Affairs for the Department of the Interior.

The committee is pleased to welcome Mr. Fredericks. Today is only the second time in the Senate's history when a hearing has been held on the nomination of the Assistant Secretary for Indian Affairs.

The extensive interest in this nomination is demonstrated by the number of Indian tribes and organizations which have contacted this committee requesting an opportunity to testify or to submit written testimony.

At this point, I will submit for the record telegrams and letters in support of Mr. Fredericks' nomination from the following: the Red Lake Band of Chippewa Indians, the Lieutenant Governor and executive director of the Commission on Indian Affairs of the State of Colorado, the Seminole Tribe of Florida, the Fort Mojave Indian Tribe, the Crow Tribal Council, the Blackfeet Tribe, the Shakopee Sioux community of Minnesota, the National American Indian Cattlemen's Association, the Fort Belknap Community Council, the Cheyenne River Sioux Tribe, and the National Indian Board of Alcohol and Drug Abuse.

In addition, I would like to submit for the record the following communications from Senator George McGovern and Senator Gary Hart in support of the nomination of Mr. Fredericks and of his confirmation.

[The material follows. Testimony resumes on p. 34.]

ROGER A JOUDAIN, CHAIRMAN, RED L
BOX 1457
BEMIDJI MN 56601

Mailgram

4-0671998044 02/13/80 ICD IPHBNZ CBP NMBH
2187510160 MGN TDBN BEMIDJI MN 422 02-13 0529P EST

REC'D FEB 13 1980

SENATOR JOHN MELCHER
SENATE OFFICE BLDG
WASHINGTON DC 20515

DEAR PRESIDENT CARTER,

ALMOST 3 WEEKS HAVE PAST SINCE MY LAST TELEGRAM TO YOU CONCERNING THE ISSUES OF TRIBAL CONSULTATION ON THE APPOINTMENT OF A NEW ASSISTANT SECRETARY ON INDIAN AFFAIRS. ALL INDICATIONS POINT TO THE FACT THAT ANOTHER "IN HOUSE DECISION" IS ABOUT TO BE MADE FOR INDIANS WITHOUT SO MUCH AS A COURTESY GESTURE TO INDIAN TRIBAL GOVERNMENTS FOR THEIR INPUT AND NOMINATIONS.

I AM TOTALLY DISILLUSIONED AND SADDENED THAT AFTER 4 DECADES OF WORK AS A MEMBER OF THE DEMOCRATIC PARTY, I CANNOT GET ONE TELEPHONE CALL RETURNED, ONE LETTER ANSWERED, OR ONE TELEGRAM ACKNOWLEDGED FROM ANYONE OF YOUR DEMOCRATIC APPOINTEES.

WE, IN INDIAN COUNTRY FACE CERTAIN EXTINCTION SHOULD A BUREAUCRAT LIKE TOM FREDERICKS BE ARBITRARILY APPOINTED TO THE MOST IMPORTANT POSITION IN INDIAN AFFAIRS. HE AND FORREST GERARD ARE TRYING TO DESTROY OUR GOVERNING BODY BY DEVISUS METHODS. FIRST, BY IGNORING OUR COMPLAINTS CONCERNING CONSTITUTIONAL VIOLATIONS BY THE BUREAU; SECONDLY, BY THEIR ADMINISTRATIVE BREACH OF TRUST AND ABUSE OF THEIR ADMINISTRATIVE OFFICES TOWARD OUR TRIBAL COUNCIL; THIRDLY, BY THEIR POLITICAL INVOLVEMENT WITH REPUBLICAN SENATOR RUDY BOSchwitz AND REPUBLICAN CONGRESSMAN ARLAN STANGELAND FROM THE 7 DISTRICT OF MINNESOTA IN AN ATTEMPT TO UNDERMINE OUR INTERNAL GOVERNMENTAL DECISIONS; AND FINALLY, THE MOVE BY GERARD TO SABOTAGE A MEETING WITH THE UNDER SECRETARY OF THE INTERIOR AND THE INSPECTOR GENERAL'S OFFICE ON JANUARY 10, 1980, WHICH WAS SET UP BY BRUCE VENTO, DEMOCRATIC CONGRESSMAN FROM MINNESOTA, TO RESOLVE THE MISUNDERSTANDING CONCERNING THE RED LAKE SITUATION. THE MOVE TO SABOTAGE OUR MEETING WAS NO SURPRISE TO US BECAUSE THIS WAS JUST ANOTHER ATTEMPT ON THE PART OF GERARD TO DISCREDIT AND DEMONIALIZE OUR GOVERNING BODY AND TO INTERFERE WITH RESOLVEMENT OF OUR DIFFICULTIES. TOM FREDERICKS WAS A VERY ENTEGREAL INSTRUMENT IN THE HORRIBLE TREATMENT THAT OUR COUNCIL RECEIVED FROM THE BUREAU IN THAT HE WAS THE ASSOCIATE SOLICITOR ON INDIAN AFFAIRS AND IS PRESENTLY ON THE 6 FLOOR OF THE DEPARTMENT OF INTERIOR MOBILIZING HIS STAFF FOR HIS NEW POSITION.

PLEASE REMEMBER YOUR CAMPAIGN PROMISE TO THE INDIAN CHAIRMAN CHIEF AND GOVERNORS THAT YOU MADE TO THEM ON OCTOBER 8 1976, IN WHICH YOU STATED THAT ALL MAJOR DECISIONS ON INDIAN AFFAIRS WOULD BE MADE IN THE TRIBAL COUNCIL CHAMBERS AND NOT IN WASHINGTON DC. WE NEED YOUR HELP BY CALLING FOR NOMINATIONS FROM THE TRIBES FOR THE ASSISTANT SECRETARY POSITION. THANK YOU FOR YOUR CONSIDERATION AND EARLY ACKNOWLEDGEMENT TO THE TRIBES. SINCERELY,

ROGER A JOUDAIN, CHAIRMAN, RED LAKE BAND OF CHIPPEWA INDIANS

17:31 EST

MGNCOMP MGN

READER
FICHE

RED LAKE BAND TRIBAL COUNCIL VN
BOX 1457
BENIDJI MN 56601



4-0610198177003 06/25/88 ICS IPHNBSI CDP NBSB
2 2187510100 NBN TDBN BENIDJI MN 06-25 0324P EST

REC'D JUL 4 1988

06/25/88 JUL 07/88

SENATOR JOHN MELCHER
US SENATE
WASHINGTON DC 20515

THIS IS A CONFIRMATION COPY OF A PREVIOUSLY PHONE-DELIVERED TELEGRAM

DEAR SENATOR MELCHER,

ON BEHALF OF THE RED LAKE BAND OF CHIPPEWA INDIANS, I WISH TO SUPPORT
TOM FREDERICKS' NOMINATION FOR THE POSITION OF ASSISTANT SECRETARY OF
THE INTERIOR ON INDIAN AFFAIRS. IT IS IMPERATIVE THAT THIS VACANCY BE
FILLED AS SOON AS POSSIBLE TO FILL THE VACUUM WITHIN THE B.I.A. WHICH
HAS EXISTED FOR THE PAST 10 YEARS. THE LACK OF LEADERSHIP ABILITY
WITHIN THE BUREAU OF INDIAN AFFAIRS HAS CAUSED INDIAN TRIBES TO
SUFFER FROM THE INABILITY AND DELIBERATE NEGLECT OF CARRYING OUT
THEIR TRUST RESPONSIBILITY TO INDIAN TRIBES. THE BUREAU HAS PURPOSELY
STALLED AND RENDERED THE CONGRESSIONAL ACT ON INDIAN SELF
DETERMINATION INEFFECTIVE WHEN THAT ACT SHOULD HAVE PLACED TRIBES IN
THEIR RIGHTFUL DECISION MAKING POSTURE TO DETERMINE THEIR OWN
DESTINIES. INFORMATION HAS BEEN OBTAINED ABOUT TOM FREDERICKS WHICH
CAUSED US TO BELIEVE THAT HE IS THE BEST MAN FOR THE JOB. WE
EAGERLY SUPPORT PRESIDENT CARTER'S AND VICE PRESIDENT MONDALE'S
SELECTION OF TOM FREDERICKS. SINCERELY,
ROGER A JOURDAIN, CHAIRMAN
RED LAKE BAND OF CHIPPEWA INDIANS
BOX 1457
BENIDJI MN 56601

19127 EST

NBNCOMP NBN

EXECUTIVE CHAMBERS

RICHARD D. LAMM
Governor

144 State Capitol
Denver
80203
888-2067

NANCY DICK
Lt. Governor

June 26, 1980
REC'D JUN 30 1980

The Honorable John Melcher, Chairman
Senate Select Committee on Indian Affairs
Senate Office Building
Washington, D.C. 20510

Dear Chairman Melcher and Committee Members:

This telegram is to express our support and endorsement of Thomas Fredericks, an attorney in Boulder, Colorado, who has been nominated as Assistant Interior Department Secretary for Indian Affairs.

Our office has worked closely with Tom during his tenure as Associate Solicitor for Indian Affairs. He is dedicated, highly motivated, innovative and most qualified and we strongly recommend Tom for the position of Assistant Secretary for Indian Affairs. We urge you and thank you in advance for giving Thomas Fredericks' appointment every consideration.

Sincerely yours,

Nancy Dick

Nancy Dick
Lieutenant Governor
State of Colorado

Marilyn Youngbird
Marilyn Youngbird
Executive Director
Commission on Indian Affairs
State of Colorado

/vlb

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA G. SAYEN
Secretary-Treasurer

5873 STURLING ROAD
HOLLYWOOD, FLORIDA 33040
853-7112
791-0229

May 1, 1980

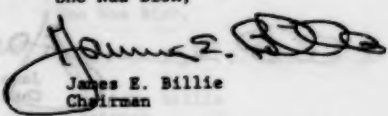
The Honorable
Edward J. Stack
United States House of Representatives
Room 1440 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Stack:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,


James E. Billie
Chairman

JEB/mso

SEMINOLE TRIBE OF FLORIDA

James E. Billie
Chairman

Frank Butler
Vice Chairman



Orville D. Saxon
Secretary-Treasurer

1675 STEVENS ROAD
MELTOWN, FLORIDA 32834
352-7112
79-0820

May 1, 1980

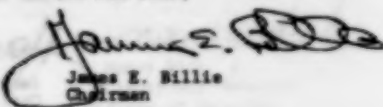
The Honorable
Edward J. Stack
United States House of Representatives
Room 1440 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Stack:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Requite as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Nee Bish,


James E. Billie
Chairman

JEB/msc

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. GAYEN
Secretary-Treasurer

2015 STEVENS ROAD
HOLLYWOOD, FLORIDA 33020
954-7112
791-0880

May 1, 1980

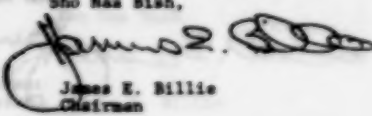
The Honorable
Claude Pepper
United States House of Representatives
2239 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Pepper:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,


James E. Billie
Chairman

JEB/mso

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PHILIP D. SAYEN
Secretary-Treasurer

6075 STANLEY ROAD
HOLLYWOOD, FLORIDA 33024
983-7112
791-0820

May 1, 1980

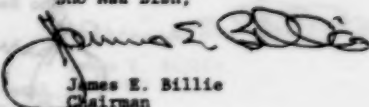
The Honorable
William "Bill" Nelson
United States House of Representatives
1513 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Nelson:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,


James E. Billie
Chairman

JEB/mso

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. SAYEN
Secretary-Treasurer

9673 STIRLING ROAD
HOLLYWOOD, FLORIDA 33024
583-7112
791-0880

May 1, 1980

The Honorable
Andrew (Dan) Mica
United States House of Representatives
512 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Mica:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,

James E. Billie
Chairman

JEB/msc

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. BAYEN
Secretary-Treasurer

6073 STIRLING ROAD
HOLLYWOOD, FLORIDA 33024
563-7112
781-0489

May 1, 1980

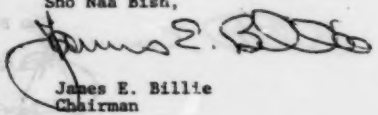
The Honorable
William Lehman
United States House of Representatives
2440 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Lehman:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,


James E. Billie
Chairman

JEB/mso

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman
211743P
1000 1ST



PHILICIA D. BAYEN
Secretary-Treasurer

8073 STIRLING ROAD
HOLLYWOOD, FLORIDA, 33024
889-7112
791-0885

May 1, 1980

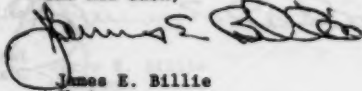
The Honorable
Richard Kelly
United States House of Representatives
307 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Kelly:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,


James E. Billie
Chairman

JEB/mso

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. SAYEN
Secretary-Treasurer

8073 STIRLING ROAD
HOLLYWOOD, FLORIDA 33024
953-7112
781-0829

May 1, 1980

The Honorable
Andy Ireland
United States House of Representatives
115 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Ireland:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,

James E. Billie
James E. Billie
Chairman

JEB/msc

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. SAYEN
Secretary-Treasurer

6073 STIRLING ROAD
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583-7112
791-0800

May 1, 1980

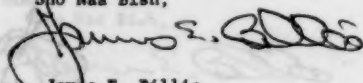
The Honorable
Earl Dewitt Hutto
United States House of Representatives
Room 508 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Hutto:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,


James E. Billie
Chairman

JEB/mso

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman
FRED BARTH
Vice Chairman
3011 13th
20000



FRISCKLA D. BAYEN
Secretary-Treasurer
8073 STIRLING ROAD
HOLLYWOOD, FLORIDA 33024
562-7112
791-0920

USPT May 1, 1980

The Honorable
Sam Gibbons
United States House of Representative
2206 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Gibbons:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,

James E. Billie
Chairman

JEB/msc

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. SAYEN
Secretary-Treasurer

8073 STIRLING ROAD
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791-0820

May 1, 1980

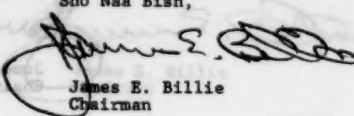
The Honorable
Don Fuqua
United States House of Representatives
2268 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Fuqua:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,


James E. Billie
Chairman

JEB/mso

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. BAYEN
Secretary-Treasurer

5073 STURLING ROAD
HOLLYWOOD, FLORIDA 33024
954-7112
791-0889

May 1, 1980

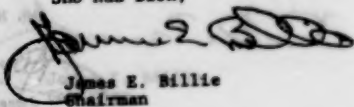
The Honorable
Dante B. Fascell
United States House of Representatives
2354 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Fascell:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Was Bish,


James E. Billie
Chairman

JEB/mac

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. BAYEN
Secretary-Treasurer

6073 STIRLING ROAD
HOLLYWOOD, FLORIDA 33024
953-7112
791-0820

May 1, 1980

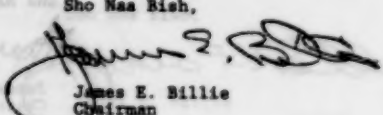
The Honorable
William V. "Bill" Chappell, Jr.
United States House of Representatives
2353 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Chappell:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,


James E. Billie
Chairman

JEB/mso

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PHILICIA D. SAYEN
Secretary-Treasurer

8073 STIRLING ROAD
HOLLYWOOD, FLORIDA 33024
983-7112
791-0980

May 1, 1980

The Honorable
Charles Bennett
2107 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Bennett:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

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Sho Naa Bish,

James E. Billie
Chairman

JEB/mso

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. GAYEN
Secretary-Treasurer

6073 STIRLING ROAD
HOLLYWOOD, FLORIDA 33024
563-7113
791-0807

May 1, 1980

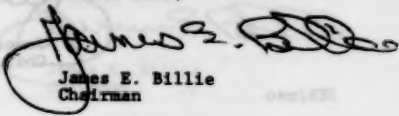
The Honorable
L.A. "Skip" Bafalis
United States House of Representative
2433 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Bafalis:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

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Sho Naa Bish,


James E. Billie
Chairman

JEB/msc

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman

FRED SMITH
Vice Chairman



PRISCILLA D. BAYEN
Secretary-Treasurer

8073 STANLEY ROAD
HOLLYWOOD, FLORIDA 33064
305-7712
79-0889

May 1, 1980

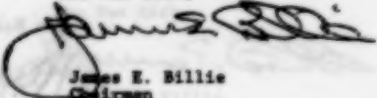
The Honorable
Richard Stone
1327 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Stone:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Requite as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Nish,


James E. Billie
Chairman

JEB/mco

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
ChairmanFRED SMITH
Vice ChairmanPASCILLA D. DAVIS
Secretary-Treasurer8975 STERLING ROAD
HOLLYWOOD, FLORIDA 33024
305-7112
305-4880

May 1, 1980

The Honorable
Lawton Chiles
United States Senate
437 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Chiles:

We are writing to let you know of our strong support for the confirmation of Mr. Tom Fredericks, Esquire as Assistant Secretary of Interior for Indian Affairs. Mr. Fredericks has distinguished himself in private practice and in public service for many years. He is a champion of the rights of the Indian people and of the rule of law.

We urge you to give him your support for a speedy confirmation.

Sho Naa Bish,

A handwritten signature in dark ink, appearing to read "James E. Billie".

James E. Billie
Chairman

JEB/msc

P.O. BOX 688 • NEEDLES, CALIF. 92363 • (714) 326-3844

June 12, 1980

RECEIVED JUN 16 1980

Max I. Richtigman, Staff Director
Select Committee on Indian Affairs
Washington D.C. 20510

Dear Director Richtigman:

The Fort Mojave Tribal Council would like to recommend that you support the nomination of Mr. Thomas W. Fredericks for the position of Assistant Secretary of Interior for Indian Affairs.

We have known Mr. Fredericks since his days as a WAMP staff attorney and later as Associate Solicitor for Indian Affairs. We are confident that his legal experience has given him an incisive insight into the challenges that confront Indian Tribes in the 1980's. We believe that he is fully qualified to exercise the office of Assistant Secretary of Indian Affairs.

During our association with Mr. Fredericks in the past, we have found him to be a man of impeccable integrity, high moral character and great intellect.

Due to the drastic need for leadership within the Bureau of Indian Affairs, we urge that you act upon Mr. Fredericks nomination as soon as possible.

Director Richtigman, we trust that you consider our recommendation in making your decision.

Very truly yours,

PORT MOJAVE TRIBE

Llewellyn Barrackman
Llewellyn Barrackman
Chairman

LB/jp

Telegram

IPHPONT MSA

4-0525948163 06/11/80

ICB IPHMTZZ CSP

4066382601 TDMY CROW AGENCY MT 55 06-11 0314P EST

PMS HONORABLE JOHN MELCHER, CHAIRMAN SELECT COMMITTEE ON INDIAN

AFFAIRS

CAPITOL ONE DC

JUN 12 1980

REC'D JUN 11 1980

DEAR SENATOR MELCHER

WE OF THE CROW NATION URGE YOU EXPEDITE CONSIDERATION OF THE APPOINTMENT OF MR TOM FREDERICKS AS ASSISTANT SECRETARY OF THE INTERIOR. MR FREDERICKS HAS WORKED CLOSELY WITH THE CROW TRIBE ON MANY OCCASIONS, AND WE ARE FIRMLY CONVINCED HE WOULD SERVE HIS COUNTRY, HIS PRESIDENT, AND AMERICAN INDIANS WITH DEDICATION.

SINCERELY,

FOREST HORN CHAIRMAN CROW TRIBAL COUNCIL

15115 EST

Telegram

IPMPOHT NSA

4-0766378165 06/13/80

ICB IPHMYZZ C8P

4003387511 NL TDHT BROWNING MT 60 06-13 0508P EST

PHS SENATOR JOHN MELCHER

REC'D JUN 13 1990

CAPITOL ONE DC

DEAR SENATOR MELCHER

RECENTLY MR TOM FREDERICKS NAME WENT INTO THE SENATE FOR THE POSITION OF ASSISTANT SECRETARY OF THE INTERIOR FOR INDIAN AFFAIRS. WE THE BLACKFEET PEOPLE WOULD VERY MUCH APPRECIATE IT IF THIS APPOINTMENT WOULD BE EXPEDITED AS SOON AS POSSIBLE AS IT IS VERY IMPORTANT TO OUR TRIBES IMMEDIATE BUSINESS MATTERS. YOUR SUPPORT WILL BE APPRECIATED

SINCERELY

EARL OLDPERSON, CHIEF OF THE BLACKFEET TRIBE

17109 EST

IPMPOHT NSA



UNITED STATES DEPARTMENT OF THE INTERIOR

Telegram

IPMPORT HSA

4-0328838165 06/13/80

ICB IPHONGZ CSP

6124455655 TDBN SHAKOPEE MN 34 06-13 1159A EST

PHS SENATOR JOHN MELCHER

REC'D JUN : 3 1980

CHAIRMAN SENATE SELECT COMMITTEE ON INDIAN AFFAIRS RPT DLY MGN, OLW
 IMMIGRATION BLDG ROOM A-702
 WASHINGTON DC 20510

DEAR SENATOR MELCHER:

THE SHAKOPEE MDEWAKANTON SIOUX COMMUNITY DOES RECOMMEND AND URGE
 IMMEDIATE CONFIRMATION OF TOM FREDRICKS FOR ASSISTANT SECRETARY OF
 INTERIOR FOR INDIAN AFFAIRS. THE LOWER SIOUX COMMUNITY ALSO SUPPORTS
 THE APPOINTMENT.

SINCERELY,

NORMAN M CROOKS

CHAIRMAN SHAKOPEE SIOUX COMMUNITY OF MINNESOTA, PO BOX 296,

SHAKOPEE MN 55379

PO BOX 296

SHAKOPEE MN 55379

12100 EST

IPMPORT HSA

Telegram

IPHPONT MSA
4-0325448175 06/23/80
ICS IPHMG2 CSP
3037595379 TDSN DENVER CO 05 06-23 1215P EST
PNS SENATOR JOHN HELCHER, CHAIRMAN, DLR

REC'D JUN 24 1980

SEN THOMAS
ARRIVED PASADENA
WED 12PM-PT 231
SENTHOMAS WED PASADENA
SENTHOMAS WED PASADENA
SENTHOMAS WED PASADENA

SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
1123 DIRKSEN SENATE OFFICE BLDG
WASHINGTON DC 20510

WE STRONGLY URGE THE CONFIRMATION OF THE APPOINTMENT OF MR THOMAS
FREDERICKS AS ASSISTANT SECRETARY FOR INDIAN AFFAIRS. WE CALL TO
YOUR ATTENTION THAT HE HAS AN OUTSTANDING BACKGROUND IN LAW AND
WORKING WITH THE INDIAN PEOPLE. HE HAS HIGH STANDARDS OF INTEGRITY
AND PROFESSIONAL ETHICS. WE WOULD LIKE TO SEE HIM CONFIRMED IN THIS
POSITION FOR WHICH HE IS SO WELL QUALIFIED. THANK YOU.

DON BUCKLEY, EXECUTIVE DIRECTOR, THE NATIONAL AMERICAN INDIAN
CATTLEMAN ASSOCIATION
1660 SOUTH ALBION ST SUITE 910
DENVER CO 80222

1211P EST

IPHPONT MSA

United States Senate

SELECT COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, D.C. 20510

June 11, 1980

MEMORANDUM

TO: Senator Melcher
FROM: Jo Jo Hunt
RE: Telephone Call from Jack Plumage

Jack Plumage, Chairman of the Fort Belknap Community Council, was in your Billings Office today and called from there expressing his support of the nomination of Thomas Fredericks to be the new Assistant Secretary for Indian Affairs. Mr. Plumage requested that a confirmation hearing be held very soon. He indicated that a telegram would come in from him tomorrow regarding this matter.

The nomination of Mr. Fredericks was sent up to the Senate today.

JACK PLUMAGE
PO BOX 289
HARLEN NY 59526



4-0680318165 06/13/80 ICU IPHMYEZ CSP NMBH
4063532205 NMB TDHT HARLEN NY 54 06-13 0350P EBT

REC'D JUN 16 1980

► JOHN MELCHER UNITED STATES SENATE
WASHINGTON DC 20510

SENATOR MELCHER
WE ARE ELATED THAT MR TOM FREDERICKS HAS BEEN SELECTED AS A FINALIST
FOR ASSISTANT SECRETARY FOR INDIAN AFFAIRS WE URGE THAT THE SELECT
COMMITTEE ON INDIAN AFFAIRS CONFIRM MR FREDRICKS AS SOON AS POSSIBLE
SINCERELY
CHARLES JACK PLUMAGE PRESIDENT 14 BELKNAP COMMUNITY COUNCIL

15159 EBT

NBNCOMP NMB



Cheyenne River Sioux Tribe

Box 398

Phone 964-4155

EAGLE BUTTE, SOUTH DAKOTA 57625

Melvin Garreau
CHAIRMANArchie Thompson
SECRETARYMona B. Cookman
TREASURERJanuary 24, 1980
REC'D JAN 30 1980

Senator John Melcher, Chairperson
Senate Select Committee on Indians
1123 Dirksen Senate Office Building
Washington, D. C. 20510

Honorable Senator Melcher:

The Cheyenne River Sioux Tribe is supporting Mr. Tom Fredericks for the position of Assistant Secretary of Indian Affairs.

We have found Mr. Fredericks to be receptive and understanding to the needs of the Indian people.

We feel that Mr. Fredericks would be an asset if permanently selected to the position of Assistant Secretary of Indian Affairs.

We, therefore, actively seek your support in seeing that Mr. Fredericks is approved.

We appreciate the time and consideration you give regarding this matter.

Sincerely,

CHEYENNE RIVER SIOUX TRIBE

Melvin Garreau
Melvin Garreau, Tribal Chairman

TRIBAL COUNCIL

KENNETH H. WEST
Vice Chairman
District No. 1

MADDERICK HIGH Elk
District No. 1

ROY ELK Eagle Elk
District No. 1

BIG CHASING HAWK
District No. 2

LEVI BUNS AFTER
District No. 2

ANGELINE AFRAID OF HAWK
District No. 3

CARL MAKES HIM FIRST
District No. 4

VICTOR ON THE TREE
District No. 4

ROBERT BLUE COAT JR.
District No. 4

DAVID ANNIE
District No. 5

OLBERT MARSHALL
District No. 5

JAMES CLAYMORE
District No. 5

LARRY LA PLANT
District No. 5

LEONARD DUCHENEAUX
District No. 6

JOAN LE BEAU
District No. 6



U.S. HOUSE OF REPRESENTATIVES

Telegram

IPNPORT MSA
4-0238408178 06/26/80
ICS IPMBNGZ CSP

RET'D JUN 26 1980

7159862797 TDBN TURTLE LAKE WI 62 06-26 1117A EST
PHS THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, SEN JOHN MELCHER,

CHAIRMAN
6313 DINKSEN BLDG
WASHINGTON DC 20510

SENATOR DANIEL INOUYE, SENATOR DENNIS DECONCINI, SENATOR WILLIAM
COHEN AND SENATOR MARK O MATFIELD

PLEASE SUBMIT THIS FOR THE OFFICIAL RECORD TO BE PUT IN THE HEARINGS
FOR ASSISTANT SECRETARY OF THE INTERIOR FOR THE HEARINGS SCHEDULED
TUESDAY JULY 1 80, NIBADA FULLY SUPPORTS THE WHITE HOUSE NOMINATION
OF THOMAS FREDERICKS. WE FEEL IT IS IMPERATIVE THAT THIS POSITION BE
FILLED IMMEDIATELY.

WANDA FROGG, PRESIDENT OF NIBADA

11116 EST

IPNPORT MSA

SENATE OF THE UNITED STATES
 COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY
 WASHINGTON, D.C. 20515

United States Senate

COMMITTEE ON
 AGRICULTURE, NUTRITION, AND FORESTRY
 WASHINGTON, D.C. 20515

June 30, 1980

Dear John:

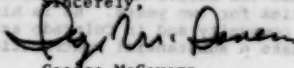
I would like to express my support for Tom Fredericks' confirmation as Assistant Secretary for Indian Affairs.

In his previous position in the Solicitor's Office, I worked closely with Mr. Fredericks on several occasions and found him to be a conscientious worker who was extremely thorough in his approach.

I would recommend your careful consideration of Mr. Fredericks' qualifications and fine record.

With every good wish, I am

Sincerely,



George McGovern

The Honorable John Melcher
 1123 Dirksen Bldg.
 Washington, D. C. 20510

GARY HART
CLERKCOMMITTEE
ARMED SERVICES
ENVIRONMENT AND PUBLIC WORKS
BUDGET

United States Senate

WASHINGTON, D.C. 20510
June 30, 1980

The Honorable John Melcher
Chairman
Senate Select Committee on Indian Affairs
6226 Dirksen Senate Office Building
Washington, D.C. 20510

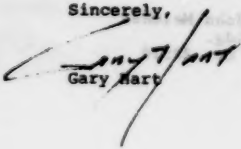
Dear John:

Thomas Fredericks, an attorney from Boulder, Colorado, is seeking the position of Assistant Secretary for Indian Affairs in the Interior Department. I am pleased to endorse his candidacy.

Mr. Fredericks formerly served as Assistant Solicitor for Indian Affairs in the Department of Interior. He helped establish the Native American Rights Fund and directed its activities for two years. He is highly respected within the Indian community and in Colorado as a whole. I believe he would make a substantial contribution if selected.

Best regards.

Sincerely,


Gary Hart

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA, 22645



Mailgram

1-800-562-1892 06/30/80 ICS IPHRRCE COP NDMH

6022488184 MDM TOWN PHOENIX AZ 95 04-50 0400P EST

Mailgram

REC'D JUL 01 1980

THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
6313 DIRKSEN SENATE OFFICE BLDG
WASHINGTON DC 20510

THE SELECTION OF MR TOM FREDERICKS FOR THE POSITION OF ASSISTANT
SECRETARY OF INTERIOR IS FULLY SUPPORTED BY THE FOLLOWING TRIBES:
CAMP VERDE, TANTO APACHE, CROOPAN, PORT McDOWELL, AND THE INDIAN
DEVELOPMENT DISTRICT OF ARIZONA, PHOENIX, ARIZONA.

WE FEEL CONFIDENT THAT MR FREDERICKS IS AN EXCELLENT CHOICE OF THE
MERITS OF HIS QUALIFICATIONS AND WILL REPRESENT THE INTEREST OF THE
TRIBES ADMIRABLY.

MR MELTON CAMPBELL, PRESIDENT OF EXECUTIVE BOARD OF DIRECTORS, IDDA
AND MRS GRACE D. MCCULLAH EXECUTIVE DIRECTOR, IDDA

17:04 EST

NGNCOMP NGH

Senator MELCHER. I will also submit for the record the following communications in opposition to Mr. Fredericks' confirmation from the All Indian Pueblo Council of Albuquerque, N. Mex.; and the Seneca Nations of Indians.
[The material follows:]

ALL INDIAN PUEBLO COUNCIL
PO BOX 4567
ALBU ALBUQUERQUE NM 87197



Mailgram



4-0605408017 01/17/80 ICB IPHNTZZ CBF WMBB
3052470371 MGN TDHT ALBUQUERQUE NM 79 01-17 0611P EST

REC'D JAN 17 1980

HONORABLE JOHN MELCHER
SENATE OFFICE BLDG
WASHINGTON DC 20510

THE FOLLOWING IS COPY OF MAILGRAM SENT TO
SECRETARY CECIL ANDRUS
SECRETARY DEPT OF INTERIOR
MAIN INTERIOR BLDG
WASHINGTON DC 20245

WE HAVE BEEN ADVISED THAT MR TOM FREDRICKS IS BEING CONSIDERED FOR
APPOINTMENT BY THE PRESIDENT AS THE NEXT ASSISTANT SECRETARY OF
INDIAN AFFAIRS. THE PUEBLO TRIBES CANNOT SUPPORT THAT ACTION
CC SELECT COMMITTEE OF INDIAN AFFAIRS
NEW MEXICO CONGRESSIONAL DELEGATION
BETTING MOVATO CHAIRMAN ALL INDIAN PUEBLO COUNCIL

10113 EST

MGNCOMP MGN

2 JOHN SENECA NATIONS OF INDIANS
BOX 100
KILLBUCK NY 14748



Mailgram



1-0102020102 06/30/68 1CB 1PMHTZ CSP NQMA
716055441 NQD TONT SALAPANCE NY 06 06-30 0115P EST

SENATOR MELCHER, CHAIRMAN SENATE SELECT
COMMITTEE ON INDIAN AFFAIRS
6313 DICKSON BLDG,
WASHINGTON DC 20518

THIS SERVES TO INFORM YOU THAT WE ARE OPPOSED TO THE NOMINATION OF
TOM FREDERICKS AS ASSISTANT SECRETARY OF INDIAN AFFAIRS AND THE
PROCEDURES THAT WERE FOLLOWED FOR HIS NOMINATION, AS MANY OF THE
TRIBES WERE NOT CONSULTED.

ELMER JOHN, NATIONAL CONGRESS OF AMERICAN INDIANS, AREA VICE
PRESIDENT FOR NORTHEASTERN TRIBE

1313a EST

WGNCHP NQD

Senator MELCHER. I want to take this opportunity to commend these tribes and Indian organizations, as well as those who are here today to present testimony, for their continuing expressions of concern for the qualifications of those individuals and officials who have a direct involvement in the administration of Federal Indian policy.

The committee hopes that today's hearing will provide an opportunity for an examination of some of the policies and programs which the nominee intends to pursue in carrying out his responsibilities. The committee will raise questions this afternoon regarding the role of the Assistant Secretary in contributing to the development of Indian policy within the Department of the Interior.

Our first witness is Hon. Quentin N. Burdick, our friend from North Dakota and my neighbor, since I am from Montana. He is one of the distinguished Members of the Senate.

Quentin?

STATEMENT OF HON. QUENTIN N. BURDICK, A SENATOR IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Senator BURDICK. Thank you, Mr. Chairman.

I appreciate this opportunity to testify on behalf of a native of North Dakota, Thomas W. Fredericks, who has been nominated as Assistant Secretary of the Interior for Indian Affairs.

Tom is a Mandan-Hidatsa of the Three Affiliated Tribes of western North Dakota. He was raised in North Dakota, graduated from Minot State College, and was a high school teacher and coach in North Dakota.

Tom is dedicated to helping the Indian peoples and brings considerable experience to this job. He has experience in government work both at the tribal level and at the national level. His 3 years as administrator of the Standing Rock Sioux Tribe have made him aware of the problems facing the tribes and the workings of Federal agencies at the tribal level.

In addition, Tom has been very active in Indian issues as a consultant and as a lawyer. A 1972 graduate of the University of Colorado School of Law, Tom was a founder of the Native American Rights Fund. He was associated with this organization from 1972 through 1977, serving as a staff attorney, deputy director, and for 2 years as director.

From his position as director of the Native American Rights Fund, Tom stepped into the Federal Government's most important position dealing specifically with legal issues in Indian affairs. He served for over 2 years as Associate Counsel in the area of Indian affairs for the Department of the Interior.

Tom left the Department of the Interior last fall to return to the private practice of law in Denver. His firm, Thomas W. Fredericks & Associates, specialized in Indian law and natural resource law with an emphasis on energy and water related issues. These issues are of considerable importance to many Indian tribes and are also very important in the Department of the Interior.

Mr. Chairman, I think that Tom Fredericks is very well qualified for this position and I would urge the select committee and the Senate as a whole to act promptly on his confirmation.

I thank you, Mr. Chairman.

Senator MELCHER. Thank you very much, Quentin. We very much appreciate your testimony here this afternoon.

Senator BURDICK. Thank you.

Senator MELCHER. Our next witness is the Hon. Cecil D. Andrus, Secretary of the Department of the Interior.

STATEMENT OF HON. CECIL D. ANDRUS, SECRETARY, DEPARTMENT OF THE INTERIOR

Secretary ANDRUS. Thank you very much, Mr. Chairman, for the opportunity to testify on behalf of the nomination of Thomas W. Fredericks to be Assistant Secretary of the Interior for Indian Affairs.

Those of you who have heard me talk about conservation know that I am fond of quoting Chief Joseph or Chief Seattle and other Indian leaders. These Native Americans had a special reverence for the land and were able to express their feelings in a few short sentences. I will try to be equally brief today.

Consultation with the Indian community on this appointment has been an important part of the process, but consultation does not mean that either I or the President abdicated our responsibility to nominate the person we view as best qualified. In this case, I received recommendations from a number of tribal groups, although the majority of tribal groups did not comment. Of those commenting a predominant number supported Tom Fredericks.

The Department of the Interior's concern with Indians, Aleuts, and Eskimos goes much deeper than simply trying to learn from their experiences of how to live with the land and how to conserve our natural resources.

Our responsibilities at the Department of the Interior include a sacred commitment to help modern day Native Americans cope with an environment too often foreign to their traditions and experiences.

To meet this responsibility this administration created the position of Assistant Secretary for Indian Affairs. We did this both to improve Indian programs and to bring those responsible for their administration to a higher level in the Department.

However, the creation of this position in itself will not guarantee any improvement in Indian programs. The position must be filled by a person who both understands the needs of the Native American population and has the ability and experience to put those insights to work for the benefit of the greatly varied communities of Indians, Aleuts, and Eskimos who have a trust relationship with the Department of the Interior.

In his nomination for the Assistant Secretary of the Interior for Indian Affairs and in his nomination for the first vacancy that has occurred in the position, the President has indicated that he not only requires a nominee of unquestioned ability but one who is himself a Native American.

Tom Fredericks was born in Elbowoods, N. Dak., a member of the Mandan-Hidatsa tribe. For most of his career, Mr. Fredericks has worked for the betterment of Native Americans and has demonstrated a high level of competence and effectiveness in both the private and public sectors.

He was president of the American Indian Lawyers Association in 1973 and, as has been pointed out by your colleague, Senator Burdick, has also been a high school teacher, a tribal administrator, and a spokesman for national organizations working to improve conditions for Indians.

Mr. Chairman, I have had the privilege over the past several years of observing his work very closely in the position of Associate Solicitor for Indian Affairs at Interior from July 1977 to November 1979. The quality of his work, the high level of his legal skills, and the depth of his concern for the future of Indian and other native peoples was evident to myself and to all who had contact with Tom.

I believe that Tom Fredericks has the proper combination of skills, experience, and concern to do an exceptional job in a very demanding position. I am pleased to have this opportunity to endorse his nomination for Assistant Secretary of the Interior for Indian Affairs.

I think, Mr. Chairman, that I will conclude my remarks by saying to you that the two of us had a discussion several years ago about the importance of this position and the types of people that might fill it. The man on my immediate left, Mr. Thomas Fredericks, is the kind of man that we spoke of.

He is a no-nonsense person. He calls a spade a spade. He is intelligent, articulate, able, and dedicated to improving conditions that affect Indians. I cannot think of anyone whom I would be more proud to submit to you than Tom Fredericks.

Senator MELCHER. That is a very fine recommendation.

I have a couple of questions that would fit well into our hearing record right now.

What process was used by the Department of the Interior in its search for an Assistant Secretary for Indian Affairs?

Secretary ANDRUS. We used consultation and accepted recommendations, Mr. Chairman, from all of the Indian nations within America.

I have to point out that my knowing Tom personally and having respect for him as a professional probably could have shortened that procedure a great deal, but it did not. We went back to representatives of the Indian Nations of America and asked for their consultation in this regard.

I was familiar with most of the names that came in. Tom's name was among them many times and it did not cause me to change my mind as to the type of individual that was needed or that I wanted to see fill that slot.

They did have ample opportunity for consultation and comment. That is the procedure that we followed.

Senator MELCHER. In general, would you state—although I think you have alluded to it in several places in your testimony—the criteria that were used in reviewing the qualifications of the candidates?

Secretary ANDRUS. The criteria that we used were followed within the Department by the Under Secretary, myself, and staff in the evaluation of these individuals. The initial criteria of intelligence, experience, personal involvement, dedication of the individual we put at the top of the list.

Of those, I have to say, Mr. Chairman, probably experience weighed more heavily with me than did the others.

This vacancy came about at about the end of last year. Knowing that we had a short timeframe, it was easier to deal in that regard. Nobody can quarrel with Tom's experience in that area.

Senator MELCHER. How many people were considered for the position?

Secretary ANDRUS. Mr. Chairman, I have a list of them here. The number is 11.

Senator MELCHER. What role will the Assistant Secretary for Indian Affairs have in the development and implementation of Indian policy within the Department of the Interior?

Secretary ANDRUS. The Assistant Secretary for Indian Affairs will be the chief policymaker in the area of Indian affairs. He will sit with the Secretary, the Under Secretary, and the other assistant secretaries on matters of policy in a broad range of endeavors being considered. The input will be recognized and evolved at that point in time.

I will give a little history, if I may, for some of the people in the room. Before the establishment of an assistant secretary's role, the input into a decisionmaking process—whether it was for a new national park; a national refuge; or oil, gas, or mineral leasing—the old Bureau of Indian Affairs and the Commissioner of Indian Affairs would come into the loop for comment quite a way down the road, after decisions had already been made or when decisions were imminent.

This puts the Assistant Secretary into that loop in the initial discussions. For those of you here who know Tom Fredericks, you will know that he is not bashful about letting his wishes and thoughts be known.

I think that we can safely say that the policy input from the Assistant Secretary will be received very early in any decisionmaking process.

Senator MELCHER. Thank you very much, Cecil.

I would like to place in the record at this point, without objection, the required statement for completion by Presidential nominees, which includes experience, employment record, and financial statement.

[The statement follows. Testimony resumes on p. 50.]

[COMMITTEE PRINT]

UNITED STATES SENATE**SELECT COMMITTEE ON INDIAN AFFAIRS**

ROOM 6313 DIRKSEN BUILDING

WASHINGTON, D.C. 20510

TELEPHONE 202-224-2251

INFORMATION**REQUESTED OF PRESIDENTIAL
NOMINEES**

Rule 8 of the rules of the U.S. Senate Select Committee on Indian Affairs requires that "at any hearing to confirm a Presidential nomination, the testimony of the nominee, and at the request of any member, any other witness shall be under oath. Every nominee shall submit a financial statement, on forms to be perfected by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. All such statements shall be made public by the Committee unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule."

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees, which includes a Financial Statement.

The original and twenty (20) copies of the requested information should be made available to Honorable John Melcher, Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

UNITED STATES SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: FREDERICKS Thomas Wade
(Last) (First) (Middle)

Position to which nominated: Assistant Secretary Date of nomination: June 18, 1980

Date of birth: 09 03 43 Place of birth: Elbowoods, North Dakota
(Month) (Day) (Year)

Marital status: Married Full name of spouse: Judy Marlene Haas

Name and ages of children: Nichelle Catherine
Monique Renee

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Minot State College</u>	<u>1961-1965</u>	<u>BS</u>	<u>1965</u>
	<u>Univ. of Colorado School of Law</u>	<u>1969-1972</u>	<u>J.D.</u>	<u>1972</u>

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Bowbells Public School - Mathematics Instructor & Coach, Bowbells,
North Dakota - 1965-1966

Standing Rock Sioux Tribe - OEO Director - Administrator of Federal
Programs - 1966-1969

Native American Rights Fund - Staff Attorney, Directing Attorney -

handled major cases in Indian Law - Chief Executive Officer in charge
of staff of 60 - 1506 Broadway, Boulder, Colorado - 1972-1977

Employment record—Continued

Association Solicitor for Indian Affairs - Chief lawyer for the
Department of Interior on Indian legal matters, 18th & C Sts., NW,
Washington, D.C.
Attorney-at-Law - In charge of development of private practice
for Thomas W. Fredericks & Associates, 941 Pearl St., Boulder, CO,
1979 to Present.

Military service: Enter all military service if not included above: service, dates, rank, type of discharge.

N/A

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Football Scholarship

North Dakota State Indian Scholarship

Special Scholarship Program for Indians in Law

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
<u>Colorado Bar Association</u>		<u>1972-Present</u>
<u>North Dakota Bar Association</u>		<u>1972-Present</u>
<u>Supreme Court Bar</u>		<u>1976-Present</u>
<u>Court of Claims Bar Association</u>		<u>1974-Present</u>
<u>Minot State College Alumni Association</u>		<u>1965-Present</u>
<u>University of Colorado Alumni Association</u>		<u>1972-Present</u>

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

None

Qualifications:

State fully your qualifications to serve in the position to which you have been named.
(attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Thomas W. Fredericks & Associates will be terminated and all attorney contracts will be assigned to other law firms pursuant to 25 U.S.C. §81

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I would hope that upon completion of government service that I will once again resume the private practice of law and continue to represent some of my present clients pursuant to 25 USC 470 1 (f) and consistent with the Government's Ethics Laws and my local bar ethical

3. Has anybody made you a commitment to a job after you leave government? codes.

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

No

- (b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None

Qualifications to Serve as Assistant Secretary - Indian Affairs

Having been born and raised on the Fort Berthold Reservation, North Dakota, I feel I have a good understanding of reservation life. I have also participated in the workings of tribal government as an administrator for the Standing Rock Sioux Tribe. This experience has given me the needed insights into the relationship of tribal government to State and Federal governments.

As an attorney, I have been involved in a number of important pieces of litigation that came before the courts during the 1970s. Also, I have participated in and followed many of the important legislative enactments in the 70s. My experiences in the 70s have given me a better insight as to the problems facing Indian people from a political as well as a legal standpoint.

My experience as Associate Solicitor has provided me the opportunity to understand the inner workings of the Department as well as the Department's relationship with the Congress, the White House and the other departments of the Federal government. As Associate Solicitor, I was also involved in developing the Department's position on all legislation involving Indian affairs.

I feel that these experiences qualify me to serve in the capacity as Assistant Secretary and, if confirmed, look forward to assuming this important position.

[Signature]
 Assistant Secretary

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

I have represented tribal clients before the Department of

Interior which are still pending.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

While director of the Native American Rights Fund, Inc., I

testified on many of the Indian Bills considered in Congress.

I also supervised staff who lobbied extensively.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I will reclude myself from any participation in all matters where
a potential conflict of interest may arise.

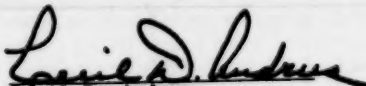
6. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them.

See Attachment (A)

ATTACHMENT A

In accordance with the provisions of 43 C.F.R. 735-14, Department of the Interior Employee Responsibilities and Conduct, Mr. Fredericks will refer to this office any decision which might result in a conflict or appearance of conflict because of prior representation of client Indian Tribes while in private practice of law. This provision is specifically stated in 43 C.F.R. 835-14(b)(3):

An Indian or Alaska Native employee of the Department shall not make nor participate in a substantial manner in any decision of the Department if he has a private direct interest as defined in paragraph 20.735-15(b) in the results of the decision. If the decision is one which the employee would be expected to make if he or she had not direct interest, the matter shall be referred to the next higher authority of the Department which does not have such private interest in an appropriate form but without recommendation by the employee having a private direct interest.


Cecil D. Andrus
Secretary of the Interior

June 26, 1980

UNITED STATES SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

FINANCIAL STATEMENT

Name: FREDERICKS Thomas Wade
SABO SWAN SWAN

Position to which nominated: Assistant Secretary for Indian Affairs Dept. of Interior

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS		LIABILITIES	
Cash on hand and in banks	2 500 00	Notes payable to banks—secured	
U.S. Government securities—add schedule	0-	Notes payable to banks—unsecured	14 000 00
Listed securities—add schedule	0-	Notes payable to relatives	0-
Unlisted securities—add schedule	0-	Notes payable to others	0-
Accounts and notes receivable:		Accounts payable	0-
Due from relatives and friends		Unpaid income tax	0-
Due from others	6 600 00	Other unpaid tax and interest	0-
Real estate interests—add schedule	332 000 00	Real estate mortgages payable—add schedule	107 300 00
Personal property	50 900 00	Charital mortgages and other loans payable	0-
Life insurance—cash value		Other debts—Name:	
Other assets—Name:		<u>Thomas W. Fredericks & Associates</u>	24 068 00
<u>Credit Union Savings</u>	1 100 00	<u>Credit Union</u>	3 000 00
<u>Thomas W. Fredericks & Associates</u>	62 254 00	<u>Credit Cards</u>	2 500 00
<u>Life Insurance</u>		CONTINGENT LIABILITIES	
<u>Est. Cash Value</u>	5 500 00	As endorser, cosigner or guarantor	
		On loans or contracts	
		Legal Claims	
		Other	
		Total liabilities	150 868 00
Total assets	460 854 00	Net worth	309 986 00

3. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

Note

0001 35 0001

2. Are any assets pledged? (Add schedule.)

Residence - 844 Spring Drive, Boulder, Colorado - 1st Mortgage: \$37,000
2nd Mortgage: \$ 3,300

3. Are you currently a party to any legal action?

No

4. Have you ever declared bankruptcy?

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes. The IRS questioned a depreciation schedule on cattle which were sold and not held for breeding purposes. I was required to pay additional taxes in the earlier years.

Trustee of Columbia

Thomas M. Fredericks) ss

AFFIDAVIT

T. J. Falls

being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 26th day of June, 1980

Richard A. Lee

Notary Public

District of Columbia

My Commission expires April 14, 1985

Senator MELCHER. Tom, will you stand now.

Do you, Thomas W. Fredericks, swear to tell the whole truth and nothing but the truth in the testimony you are about to give?

Mr. FREDERICKS. I do.

Senator MELCHER. Please be seated.

You may proceed now with your statement.

TESTIMONY OF THOMAS W. FREDERICKS, NOMINEE FOR ASSISTANT SECRETARY OF THE INTERIOR FOR INDIAN AFFAIRS

Mr. FREDERICKS. Thank you, Mr. Chairman.

I am honored to appear before this committee as the nominee for the position of Assistant Secretary of the Interior for Indian Affairs.

The Assistant Secretary for Indian Affairs has responsibilities in three areas: First, implementing policies of the Congress and decisions of the courts; second, recommending changes in Federal Indian policy and programmatic authorities; and, third, guiding the many programs and services administered by the United States as trustee for the benefit of American Indian and Alaskan Native tribes and individuals. If the Senate chooses to confirm my nomination, I would willingly assume these responsibilities and work with the Congress to achieve an enriched quality of life throughout Indian country.

As this committee knows, the Indian tribes have been hard hit by the economic conditions and resource demands effecting the Nation as a whole. During this critical time of austerity, it becomes more important than ever that Federal agencies effectively and efficiently administer service delivery systems designed to meet the pressing needs and long-term objectives of the tribes.

This approach must be carried out on a tribe-by-tribe and reservation-by-reservation basis with an emphasis on land use plans that fully reflect the unique situation of each tribe today.

Many tribes have sufficient resources to lessen their dependence upon Federal programs and to make self-determination a reality. This can only be accomplished, however, if the bureaucracy works with the tribal leadership to eliminate barriers which stand in the way of this goal, without decreasing the Federal commitment to it.

Toward this end, quality and excellence must be the order of the day—quality of work and quality of decisions. My staff would be chosen with care based upon their experience in the field and their ability to bring to bear good judgment on the difficult issues of our time.

Once issues have been fully analyzed and appraised with the Indians involved, it is essential that firm decisions are made quickly with a full understanding of their potential consequences. The Indian community has suffered too long from indecisiveness, from decisions made in a vacuum, and from lack of information in the decisionmaking process.

At the end of President Carter's first term in office the administration's Indian policy is well established, consistent with that of Congress—that is, a strong commitment to the principles of treaty and trust law and to the protection of Indian resource, cultural, and human rights.

I am committed to this policy and to programs that lead to reservation development that enhances the tribal economies without disrupt-

ing traditional Indian values and without resulting in the boom-town/ghost-town cycle. These programs must be designed at the local level and must be implemented as a cross-governmental effort.

Many agencies in many departments have resources and systems well suited to meet the tribal needs. Both tribes and agencies should be encouraged to coordinate these programs within the existing policy framework. I would eagerly work toward this type of programmatic coordination.

While it is always appropriate to examine current programs, I would not anticipate initiating major programmatic or reorganizational efforts. Instead, I would examine existing programs to determine which are working well and which require rethinking and organizing.

Many of the current programs are too new to evaluate at this time, particularly with regard to the recent educational reforms. Any major recommendations on my part in this important area will depend on initial evaluation by the Indian people as to whether this new system is serving the Indian students in a beneficial manner and involving the Indian parents in the way Congress intended.

Similarly, tribal judicial systems must be strengthened and tribal efforts to increase internal conflict resolution mechanisms must be encouraged and supported.

Finally, I would work with the tribes and States in their efforts to achieve mutual consent agreements leading toward regional economic development and cooperation in the human services area.

I thank the committee for the opportunity to appear here today. If there are any questions the members may have, I would be pleased to answer them at this time.

Senator MELCHER. Yes, Tom, there are some questions. I will go through them now because I think they will be enlightening to the committee and I hope reassuring to the Indian community throughout the Nation.

I think you are well aware that this committee fights for its survival every 2 years. We are currently fighting that battle—that is, we are waiting to see if the Senate will approve a resolution I have introduced with 20 other Senators that have cosponsored the resolution to make this Select Committee on Indian Affairs a permanent committee of the Senate.

That is a reorganization that goes on every 2 years. We have had a 2-year life in the previous Congress and a 2-year life in this Congress and would automatically terminate this committee at the end of this Congress unless the resolution similar to the one I have introduced is approved.

I raise that point now to indicate that we feel the need to assist Indians to be very great. We feel the Congress has a very definite responsibility and that the Senate, by all means, should have a permanent Indian Affairs Committee.

However, realizing that we may lose—I hope we do not lose—we feel very strongly on this committee that we want to see Indian programs enhanced, strengthened, and carried forward within the Bureau of Indian Affairs and within the Department of the Interior. We feel that responsibility very deeply.

The questions I am about to ask hinge on those responsibilities that we feel. Our strong feeling on the committee is that we must be assured

that the Department, and you in particular as the Assistant Secretary, will carry forward very vigorously and conscientiously the programs in a progressive manner for the Indians throughout the country.

My first question relates to this. Public Law 93-638, the Indian Self Determination and Education Assistance Act, has been the subject of serious criticism by Indian tribes over the years, in part due to the manner in which the administrative costs of the 638 programs are assessed upon the contractors.

What would you, as Assistant Secretary for Indian Affairs, do to correct those problems?

Mr. FREDERICKS. Mr. Chairman, I think one of the problems—that particular problem in Public Law 93-638 arises because many of the tribes are in the process of developing an infrastructure and management system. It is my understanding, although I have not discussed this particular problem with anyone in the Bureau—I would assume that part of the problem arises from the fact that the indirect costs are derived from audits—that is, auditors auditing the tribal funds and arriving at a percentile to be charged against the contract as support funds.

Many tribes have a great fluctuation in their indirect cost percentile because they are adding to and building their infrastructures. It started out very low and it is my understanding that the Bureau projects are based upon those particular percentiles.

As a result of this increase—and they are running short of funds—I would hope that in time that particular fluctuation will cease and that we will get to a point where we can pretty much project what the percentile would be.

I have one other thought that occurs to me. If this is a constant problem, we might look at it with the appropriate budget committees to determine whether we can treat this particular cost in the same manner as we treat fire suppression funds; that is, you cannot project what that will be.

If that is the problem—and I have not really analyzed it in that kind of detail—if it is something that we cannot project with any degree of certainty, then maybe we ought to be looking at getting a nominal amount with the right to come back and get a supplemental from the appropriate committees like we do with fire suppression.

I feel that with time this particular problem will go away because the tribes are getting to the point now where they have their infrastructures in place and they will be able to project with some degree of certainty the amount of money needed for this kind of contract support.

Senator MELCHER. To what extent do you believe tribes should be in the formulation of Indian policy?

Mr. FREDERICKS. I feel very strongly that tribes ought to participate. I think tribes ought to participate as a full partner with the Department in these important issues.

When we develop policy we are affecting the daily lives of the native Americans. I feel that in this policy participation it ought to be at the reservation level where appropriate, or, if the policy affects a particular region of the country, we ought to involve that particular region in detail, if the policy is national in scope, I would still hope

that we could participate with the reservation groups, a cross-section of the reservation communities, a cross-section of the regional representatives, and with the national Indian organizations.

Also, I think that one of the things that I would like to see a little more of is this. When we are going to initiate a major policy objective, I would like to see us utilize the Federal Register to serve notice, putting in a certain date to comment on a particular policy objective. Then take that notice and mail it to the tribes so that the tribes get an early start and can participate from the beginning of policy and are not reacting to a particular policy that I have initiated and developed to a point where I am totally committed to that particular policy.

I want them to have meaningful input at the beginning when we are starting to formulate a particular policy.

Senator MELCHER. I agree, but I hope you do something before you get the regulation as far as posing it for the Federal Register. I hope you have a little input prior to that time. I am sure that is what you intend, is it not?

Mr. FREDERICKS. I was just suggesting the use of the Federal Register as a notice for the mechanism for the intent to initiate policy.

Senator MELCHER. What policy do you, as the Assistant Secretary, intend to pursue in order to further economic development on Indian reservations? I am sure that this is something that is of great importance throughout the country and you must have bumped into it numerous times.

Mr. FREDERICKS. As you know, I worked with the tribes in the northern Great Plains a great deal on their resource management problems. I am a firm believer in the attempt to develop tribal economies based on an overall human and natural resources development plan. A plan that would give the tribes and the Federal Government an opportunity to assess the particular needs of a tribe and, more importantly, I think, to give them a benchmark from which to measure the success that the tribes are making in the economic development area.

I think that all too often the tribes are reacting to the Federal bureaucracy. The thing to build this year, as the result of some policy in the Economic Development Administration, may be a community center, so the tribes are held, if they want to get this particular program, to come in with a community center concept, or a recreational center.

There may be no real input from the Indian community as to what those particular needs are in their developmental stages. It has to be an overall effort.

I am also concerned about the individuals developing on Indian reservations. I think the private sector needs to develop individuals so that we can develop an economy wherein we turn over the dollar many times before it leaves the reservation economy.

I think you are familiar, Mr. Chairman, with most of our reservation communities. We have border towns where all the commercial activities on the reservation are handled off the reservation, or if it is on the reservation it is just once or twice that the dollar is turned over and it is back into the more regional economy.

I would hope that we could develop some program that would initiate an effort to develop the individual also.

Senator MELCHER. Do you believe that a Federal effort to enhance Indian art and culture on a national level, with appropriate safeguards to protect the Indian art and culture, would be beneficial to the Indian people?

Mr. FREDERICKS. I feel that the concept—I assume you are referring to your proposed bill, Mr. Chairman. Are you?

Senator MELCHER. Yes; that is one of the proposals.

Mr. FREDERICKS. I have not had an opportunity to review that particular bill. However, I have discussed it with some of the staff because, I guess, there was another hearing today.

I feel that that particular concept—I fully support the concept. I would be concerned, however, that I would need, if confirmed, to balance the priorities of this particular effort in enhancing culture and art with the other pressing needs of the Department.

Senator MELCHER. The recent article in DIEHL magazine indicated that royalties for strip mine coal on the Navajo reservation are as low as 15 cents per ton and not more than 37½ cents per ton, as compared to \$1.50 and more per ton elsewhere. There exist other such arrangements on other reservations which have mineral resources which are unconscionable on their faces.

Would you make efforts to see that such leases are renegotiated?

Mr. FREDERICKS. I sure would. I think that many of the leases that were entered into are—at the time they were entered into the Bureau of Indian Affairs was playing the dominant role in development. They were acting as a trustee. The tribes were in a more passive role.

That has changed today, as we all know. The tribes are now willing to make the kinds of agreements that they feel comfortable with.

I feel that to the extent that the Department has any leverage with the companies to bring about a renegotiation, that ought to be an effort that we undertake. Where there are valid leases, I feel it is very difficult if we do not have any kind of leverage.

However, it is my opinion that Indian tribes and the laws surrounding strip mining are such that unless you have a willing group of individuals, in tribal government, in the private sector, and in the Department, there will be no development. The laws are such that I think unless the tribes and the companies can agree there will just be no development on reservations.

Senator MELCHER. That is the leverage you would use.

Mr. FREDERICKS. That is right—hopefully.

Secretary ANDRUS. Mr. Chairman?

Senator MELCHER. Yes; Mr. Secretary.

Secretary ANDRUS. May I inject one point here? We have been doing this where we have to approve the leases. One, in my time, was increased by 50 percent above what had been negotiated.

That is part of exercising our trust responsibilities and I am sure that that would continue.

If the chairman has no objections, I would excuse myself, or I will stay if you think you might have any more questions for me.

Senator MELCHER. No; Mr. Secretary, I have no objections to your leaving now. I want to thank you very much for your appearance, both this morning and at the other of our hearings today.

Secretary ANDRUS. It has been a full day.

Senator MELCHER. Yes; it has.

Secretary ANDRUS. Thank you, sir.

Senator MELCHER. Thank you.

Tom, this committee has been told that with the current staff and budget levels for the Federal acknowledgment project that it will take until 2003 A.D. to process all of the petitions which are now filed. What would you do to remedy this situation?

Mr. FREDERICKS. I am a little bit familiar with the Federal acknowledgment project. We initiated regulations and standards basically when I was at Interior as the Associate Solicitor. They worked very closely with us in the establishment of these particular standards.

I think that the Department has initiated a very sound program. I recognize that the timeframe is very long, but I think that in the long run it is shorter than if they pursued recognition through the courts or through the Congress.

However, I have not discussed this with the program people that are responsible for it. It is my understanding, from your question and response to it, that it probably would take more dollars. Again, it is a matter of determining in these ever-increasing needs how you balance these particular projects.

I would want to discuss the options with our budget people and with the Commissioner of Indian Affairs, who runs the day-to-day operation of the Bureau of Indian Affairs, to determine whether we ought to shorten that period of time by either contracting for services or increasing the staff of the Federal acknowledgment project.

That appears to me to be probably the problem, without having discussed it in detail.

Senator MELCHER. The following question is in several parts. It is a serious question. Obviously, it is one of the reasons why you are under oath today.

I will go through the question. In October of last year, when you were Associate Solicitor for the Division of Indian Affairs, a legal opinion drafted in your division was signed by the Solicitor holding that the Fort Berthold tribal government did not have legal authority to condemn a right-of-way for public purposes across a parcel of trust allotted land within the reservation.

This opinion reversed a prior Solicitor's opinion, written over 40 years ago, about the time that the Indian Reorganization Act was passed. In addition, it appears that no one in the Bureau of Indian Affairs was consulted or apprised before this opinion was issued.

The allotment in question was apparently owned by a relative of yours.

This raises a number of questions, including a question of conflict of interest: (A) What were the circumstances that caused this opinion to be written by the Division of Indian Affairs, and what part did you play in writing or developing the opinion? (B) If a tribe lacks authority to condemn a right-of-way across trust lands for public purpose, this would seem to raise questions with respect to their authority to zone or regulate land use, their authority to tax, or to exercise authorities that are generally found to exist in local governments. Aside from the legal merits of the opinion, what is your position with respect to the notion that Indian tribes should have governmental authority over trust lands within a reservation including condemnation authority?

(C) To what extent should the Bureau of Indian Affairs be consulted or involved when the Division of Indian Affairs or the Solicitor's office develops a legal opinion that has a general impact upon the authority of tribal government or which affects tribal or individual property rights generally, or which may overturn longstanding administrative practices or policies of the Bureau?

I will go back to the individual questions and will cite again the first question. What were the circumstances that caused this opinion to be written by the Division of Indian Affairs and what part did you play in the writing or development of the opinion?

Mr. FREDERICKS. I welcome the opportunity, Mr. Chairman, to respond to this particular question. I know it is one that has been of concern in some segments of the Indian community.

Initially, it is my understanding—I did not receive the field request from the field solicitor in Aberdeen. He called my Deputy Associate Solicitor and requested guidance.

We had been sued by the tribal council and named as a defendant as the holder of a trust allotment in the name of the United States for the benefit of the allottee in question. Upon the request, my deputy came in and discussed it with me and discussed the potential conflict or the direct conflict.

I, in turn, went to the Solicitor, my ethics counselor, and apprised him of the problem and he requested that I recuse myself and do so in writing to the solicitor docket file.

On September 14 of 1979 I did that.

Senator MELCHER. Would you submit a copy of that document?

Mr. FREDERICKS. Sure.

Senator MELCHER. Without objection, a copy of the document in question will be included in the hearing record at this point.

[The document follows:]



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

SEP 14 1979

Memorandum

To: Solicitor's Docket Files

From: Associate Solicitor, Indian Affairs

Subject: Three Affiliated Tribes, Fort Berthold Reservation v. Unknown
Acres of Land in Dunn Co., et al., & United States of America
(Condemnation Proceeding, Tribal Ct.)

I have recused myself from participation in the determination of the
legality of the tribal court's order of condemnation in the above-styled
case. This matter will be handled through the Deputy Associate Solicitor.

R. J. Zell

Mr. FREDERICKS. After that particular incident, I had no further involvement.

Senator MELCHER. Let me ask now whether you had any involvement. It does not sound to me as though you were involved.

Mr. FREDERICKS. No; I did not have any involvement in the Solicitor's opinion at all.

Senator MELCHER. You had no involvement in asking for the opinion or even in relaying the opinion. Is that correct?

Mr. FREDERICKS. That is right.

Senator MELCHER. You did not even relay the request for the opinion.

Mr. FREDERICKS. That is right. I was not contacted by the field solicitor in Aberdeen.

Senator MELCHER. The call that you spoke of, which originated the request for the opinion, and the date on which you were excused and asked to be excused of your own volition on the advice of the Solicitor—I guess that is correct—he advised you to do it and of your own volition you asked to be excused.

Mr. FREDERICKS. That is right.

Senator MELCHER. That was on the basis of a conflict of interest.

Mr. FREDERICKS. That is right.

Senator MELCHER. The time of the call and the date of the request to be excused because of a conflict of interest were about the same time. Is that correct?

Mr. FREDERICKS. I would assume so. I do not really know when the call came in, but I would assume that my deputy came in and talked to me shortly after—

Senator MELCHER. The time you were apprised of it and the time you asked to be excused was about the same time. Is that correct?

Mr. FREDERICKS. That is right.

Now, when my staff started working on this particular issue to develop a position of the United States—the way we operate at the Solicitor's office is that the Justice Department will ask us to prepare a litigation report for their benefit to utilize the departmental position in their litigation.

They asked that we provide them with this particular litigation report so that they could respond to the order of condemnation that they had received as the trustee. In researching and developing that position the staff ran across a contrary solicitor's opinion, which you alluded to, and felt that the opinion was wrong and was contrary to the recent developments in Indian law. Therefore, they felt compelled to ask the Solicitor to reconsider or reverse that particular decision because of these particular factors. That, as I understand it, is what happened.

Senator MELCHER. If a tribe lacks authority to condemn a right-of-way across trust land for public purposes, this would seem to raise questions with respect to their authority to zone or regulate land use, or their authority to tax or exercise authorities that are generally found to exist in local governments.

Aside from the legal merits of the position, what is your position with respect to the notion that Indian tribes would have governmental authority over trust lands within a reservation including condemnation authority?

Mr. **FREDERICKS**. As far as the particular allotment act that we are talking about is concerned, it has some prohibitions in the statute which say something to the effect that these particular trust allotments shall be patented to the individual free of any charge or encumbrance whatsoever.

What you need to do—and this particular phrase has been interpreted many times by the courts always in the context of State governments or the Federal Government attempting to impose regulatory or taxing authority over the income or the parcel.

Therefore, the courts have interpreted this as a strict prohibition against Federal or State taxation or State or county zoning codes. However, most of the interpretation results from whether a particular governmental action will create an encumbrance or will be a charge on this particular parcel or on this particular income and will therefore contravene a particular guaranty that is included in the allotment.

Therefore, when you are dealing with a tribal government—I had an opportunity to issue an opinion on zoning on a particular reservation while I was an associate solicitor. We found that they did have authority based on statutory construction rules where we felt that the tribal government and the Indian were of the same beneficiary of the statute. Then the rules of construction would not apply to that particular situation.

Therefore, we found that the tribe could zone tribal lands for the benefit of the tribal community as a whole.

Senator **MELCHER**. As a lay person who really believes strongly in individual property rights, I want to say that I concur that I think that zoning authority is a beneficial authority for both the government—whether it is an Indian government, county government, State government, or whatever it is—and the individual.

Whereas, the right of condemnation is a very, very harsh procedure against an individual landowner. I think there is a world of difference.

The point of our question is to really lay on the record the complaints that have been made, why they have been made, and a clarification of what your position is on those specific complaints. Basically, you have answered the complaint by saying that you recognized the conflict of interest and that you were removed promptly from any consideration of that solicitor's opinion.

I have one further question with regard to this and it is a general question but, I think, an important one. To what extent should the Bureau of Indian Affairs be consulted or involved when the Division of Indian Affairs or the Solicitor's office develops a legal opinion that has general impact on the authority of tribal governments or which affects tribal or individual property rights generally, or which may overturn longstanding administrative practices or policy of the Bureau?

Mr. **FREDERICKS**. I feel very strongly that the Bureau of Indian Affairs and the Assistant Secretary should get involved and participate in a situation such as this where it impacts the particular tribal governments that we are attempting to develop under a policy of self-determination.

Senator **MELCHER**. Let me just state right here that that is one of the reasons why this committee felt very strongly that we need an Assistant Secretary for Indian Affairs, to have an Indian acting on

behalf of Indians right up to the level of Assistant Secretary so that we have some input for Indians right at that level.

Mr. FREDERICKS. I think one of the problems in this particular effort on the part of the Solicitor's office was that I was the link with the Assistant Secretary's office. When I recused myself, we did not have—we were dealing with staff that had not participated in these kinds of meetings in the Department.

However, we have an elaborate surnaming process in the Department. I do not know why the surnaming process was not put into effect in this particular issue, Mr. Chairman.

I remember early on, when I came into the Department, I wrote a letter on behalf of a particular tribe requesting something for the signature of the Solicitor. I quickly told either the lawyer or the chairman that had requested that, that I had got the letter out. I think it was about 45 days later when I found out that the letter was still in the surnaming process. He was calling me and asking why we never got it out.

There is a surnaming system. There are checks and balances to correct this kind of problem. I cannot answer why in this particular issue the system did not work.

Senator MELCHER. There have been complaints from tribes about whether or not the outcome of the election was properly handled, whether it was a legal election, or whether the Department of the Interior or the Bureau recognized the properly elected official.

Sometimes we have complaints concerning longstanding tribal constitutions when it does not appear that the Bureau responds or the Department responds or takes any action at the right time.

Does it appear to you that regulations should be promulgated to govern departmental actions in these matters?

Mr. FREDERICKS. Mr. Chairman, I am not sure that regulations can be promulgated absent some particular statute. We would authorize the Department to promulgate such regulations, but I feel that the Department has been receiving more and more of these particular kinds of requests. I attribute it to the fact that the 1968 Indian Civil Rights Act, when it was passed, had a jurisdictional grant to the Federal district courts for all of the violations of the constitutional guarantees that that particular act granted to the Indian people.

As a result of early interpretations by the courts many of the tribal people litigated these intertribal disputes in Federal court. As a result of the 1978 *Martinez* case the jurisdictional grant was restricted to the habeas corpus part of the statute, thereby foreclosing the Federal courts from resolving these disputes.

Now and traditionally, the courts and the Department as the executor have attempted to have these kinds of disputes resolved through the tribal structure. I guess that is why I am reluctant to say that we ought to develop procedures and assume the responsibility within the Department.

I feel that it is important that we assist tribes in developing a judicial system that can handle these kinds of disputes, either by providing resources or by providing the guidance.

Also, as far as the tribal constitutions are concerned, many of the constitutions have not developed these kinds of standards. They have not been reviewed to incorporate these standards.

Senator MELCHER. Look, Tom, I am not going to get into a legal argument on this, but, first of all, I do not think that the Secretary can duck his trust responsibility and, second, often the judicial system on the reservation of the tribe is at the very core of the complaint.

The question really evolves, where there is a complaint, how is it going to be handled? There are no regulations that we can find to cover it.

Mr. FREDERICKS. That is right. There are none.

I was involved in one of these particular disputes when I, basically, developed the legal rationale for getting involved. It is a result of the *Martinez* case wherein the court alluded to the fact that if the Department of the Interior takes action to implement a particular decision of the tribe—say you have a tribal court decision saying so and so is the chairman. They have resolved the dispute but the person that feels that he has been denied due process appeals to the Department asking us to resolve the particular issue.

In many cases we have to, in those kinds of situations, certify the election. The election is not really final until there is a certification. Therefore, when the particular official of the Department attempts to certify, he is then taking Federal action that I think is reviewable under the Administrative Procedures Act.

Therefore, we can look at that particular proceeding in the tribal court or in the tribal structure and say that due process was or was not met and thereby get involved.

However, I do not think we can withhold our particular approval of, say, a tribal budget because so and so was denied due process in a tribal dispute over a land assignment, or something like that. I do not think we have that kind of broad authority.

Senator MELCHER. Tom, do you know if President Carter's water policy on Indian water rights advocates litigation of disputes or advocates negotiation of the question?

Mr. FREDERICKS. I think he expressed a strong preference for negotiated settlements.

Senator MELCHER. I am glad to hear that. It has been very unclear, as far as I am concerned. I have had a tough time determining what President Carter's policy is on Indian water rights.

If it is negotiation, why is it that the Department itself filed four suits in Montana? The Department of the Interior filed four suits in Montana in early 1979. The Justice Department says that, after they got kicked out of court in Billings by two Federal judges, they want to appeal to the appellate court. That does not sound to me like negotiation. That sounds to me like a determination for litigation.

When the cases were dismissed by the two Federal judges in Montana, they said, "Let us negotiate because some of the tribes have indicated that they want to negotiate. Let us see how that works." Now, I do not know. I just wondered if that is the President's policy. Why is the Justice Department seemingly pursuing the next step to the appellate court in San Francisco?

Mr. FREDERICKS. In my position in the firm, I would be in the policy sector and I would not want to second guess why Justice has appealed, but I can give you my personal opinion.

Senator MELCHER. That will help the committee.

Mr. FREDERICKS. I was somewhat familiar—as Solicitor—with the development of these particular lawsuits and recommending that the Justice Department bring these actions in Federal court.

As you recall, in Montana and in many States in the West—I happened to be involved in a case called *United States v. Akin*. That was a case that interpreted the McCarren amendment of 43 U.S.C. 666 wherein Congress authorized the joinder of the United States as a party defendant in actions involving general stream adjudication, or it waived its sovereign immunity.

In that particular case the issue was whether the United States had waived its immunity with respect to Indian water rights. It was claiming water as a trustee. The Supreme Court interpreted that particular waiver of immunity to apply to the Indian rights as well.

Therefore, many of the States in the West followed that particular case. As you well recall, the State Legislature of Montana attempted to pass legislation, and in fact did pass legislation, which would adjudicate all of the streams in the State of Montana.

Therefore, the tribes were negotiating with the State. They were asking the State to withhold the passage of the bill pending an attempt to negotiate.

The bill was too far along. The tribes were not successful in their efforts to lobby the State legislature and say, "Let us negotiate." As a result of the *Akin* decision, we ended up in what we call a race-to-the-courthouse situation.

The tribes wanted to go to Federal court because of their feeling that it was a forum where they felt more comfortable and that the Federal judges would interpret their Federal rights and have more expertise to interpret these Federal rights. Whereas, the States wanted to adjudicate these particular rights in the State courts.

That is prevalent throughout the West. It is not just a Montana problem. Wyoming has done it. Utah attempted to do it. Colorado is doing it. New Mexico is doing it. Arizona is doing it.

It is a problem. The Department of Justice, I feel, has always zealously protected the Federal forum to bring their actions, to have the rights, and to have treaties and statutes interpreted—that is, Federal treaties and statutes—in Federal court.

That is, basically, I think, the policy that you are seeing. Namely, Justice attempting to protect the Federal forum to have these rights determined.

You must realize that with the Montana law being passed there was going to be adjudication in State court or Federal court. It was not that there was not going to be an adjudication.

The other point that I would like to make is that even though there is a lawsuit and an appeal pending, it has been the practice of our profession, where it is in the best interest of the client, that we can settle these cases at any time.

I have just been involved in a case in South Dakota, as a matter of fact, wherein we asked the Federal judge to—and we are fighting the same battle there that Judge Batton and Judge Hatfield decided when they dismissed the case—the State has moved to dismiss the Federal case. We are in Federal court. We have asked the Federal judge to stay that determination until we can talk with the State to determine whether we can settle this case without going through this elaborate general stream adjudication.

Senator MELCHER. There is no way, at this time, to adjudicate all of that water. What the State procedure would entail is hard to say.

At least, from my experience, it would be hard for me to project what that procedure would entail.

If there were an agreement for not pressing suit in State court as far as the Indian water rights were concerned, does that not lend itself to the opportunity for negotiation rather than litigation? I think the litigation can go on for 25, 30, or 40 years and still not be resolved if it follows some of the cases in Nevada.

I know of some cases there that are 40 years old and are still not negotiated.

Mr. FREDERICKS. I think that the Department has made it very clear to the Solicitor—as I recall, the Secretary stated that, notwithstanding the fact that they filed a Federal claim and requested Justice to file a Federal claim, they were still amenable to a negotiated settlement. I think that is our position today.

Senator MELCHER. Thank you very much, Tom. That concludes our receiving of your testimony and the questions that we have of you. Thank you very much.

Mr. FREDERICKS. Thank you, Mr. Chairman.

Senator MELCHER. Our next witnesses will be Ed Driving Hawk, president of the National Congress of American Indians, and Del Lovato, chairman of the All Indian Pueblo Council of Albuquerque, N. Mex. Will you please approach the witness table.

Mr. Ron Andrade, are you replacing Ed Driving Hawk?

Mr. ANDRADE. Ms. Loretta Metoxin is.

Senator MELCHER. Please proceed, Ms. Metoxin.

STATEMENT OF LORETTA METOXIN, MINNEAPOLIS AREA VICE PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS; ACCOMPANIED BY RON ANDRADE, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS

Ms. METOXIN. Mr. Chairman, my name is Loretta Metoxin, Minneapolis area vice president of the National Congress of American Indians. I want to thank the committee for allowing the National Congress of American Indians to present this statement.

The National Congress of American Indians is the oldest and largest of the national Indian organizations. We represent over 150 tribal governments with a combined tribal enrollment of over 400,000 Indians.

I am here today to testify in opposition to the process used in nominating Mr. Thomas Fredericks for the position of Assistant Secretary for Indian Affairs of the Department of the Interior.

I want to restate that NCAI is strongly opposed to the process used for the nomination.

We expect that there will be specific testimony both in opposition and in support of Mr. Fredericks. These Indian people that will testify represent the views of their tribal governments and in some cases the views of intertribal groups. They will speak to specific concerns regarding Mr. Fredericks and we request that their views be seriously considered.

At NCAI's mid-year conference held in Reno, Nev., a majority of our members voted to oppose this nomination. A copy of a resolution passed at our conference is attached to this statement.

We do not feel that Secretary Andrus or the President have honestly attempted to follow the tribal consultation process in making this nomination. Although every tribe in the United States was aware of the search for a new Assistant Secretary and every tribe was willing to participate in a selection process, only one meeting was held with tribal leaders to discuss the Assistant Secretary position.

The one meeting held on February 26, 1980, was a farce since the meeting was begun with the statement, "Mr. Andrus favors Mr. Fredericks. Now let us talk about your candidates." It did not come as a surprise to us that following that meeting, Mr. Fredericks was the final nominee, but it should not come as a surprise to this administration that following this type of consultation NCAI would testify in opposition.

The concern of NCAI regarding the process used by the Carter administration in this nomination stems from a campaign promise made by Mr. Carter in 1976. In 1976, Mr. Carter promised: "Self government must mean that the majority of decisions affecting Indian tribes will be made in the tribal council room and not in Washington."

NCAI does not see how this administration can say that they have lived up to this statement with the consultation process used. Now Mr. Carter is beginning another campaign by breaking this promise. How many other promises will he make and then break as we enter this campaign? Further, how many more broken promises are we to endure?

We fail to see how this administration feels that they have honestly respected the consultation process. The Indian tribes have always felt that the consultation process was an inherent part of the government-to-government relationship between Indian nations and the United States. It is our belief that the sovereignty of the Indian nations can only be protected by an open and honest exchange between Indian nations and the Federal Government.

This administration seems to be satisfied with the belief that they need not consult with anyone regarding major policy decisions. Apparently, this is not confined only to nonconsultation with Indian nations. Recent statements from Europe have indicated that American consultation with European allies has been at its lowest ebb since the Suez crisis. It would seem that this administration does not consult with anyone.

A further indication of the administration's attitude toward Indians might be seen in the one meeting held on February 26, 1980. The meeting was conducted by the Assistant Secretary for Fish and Wildlife, Mr. Herbst. This may indicate a new attitude of this administration in its view of Indians. We feel that if the Secretary could not meet with us, then the Under Secretary or the Assistant Secretary for Intergovernmental Affairs might have seemed more appropriate.

We feel that while opposing this nomination, it is imperative that NCAI suggest a consultation process that might be used. We further feel that some questions regarding the nomination process should be answered.

We would like to know: How many tribes submitted nominations; how many expressly supported Mr. Fredericks; how many expressly opposed; and how many expressly supported another candidate?

By reviewing this information we feel that the Indian people will clearly see what this administration thinks of their views.

We feel that this administration can begin to develop a consultation process by simply reviewing present law. The consultation process is already embodied in the Indian Reorganization Act of 1934.

The section states:

The Secretary of the Interior shall advise such tribe or its tribal council of all appropriate estimates of Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress.

The Secretary need only extend this principle to the nomination process.

Next, the administration should identify those tribes that have a government-to-government relationship with the United States. This is identified in 25 CFR 54.6. Further, the administration needs to identify other intertribal groups or tribal organizations such as NCAI.

The next step, and what seems to be the hardest for this administration, is to invite the tribal governments to a meeting where Indian concerns can be discussed in an open and honest manner.

Mr. Chairman, as I stated in the beginning of our statement, NCAI opposes the process used in making this nomination.

It has become a sad and general practice for Indians to come to this committee to appeal the decisions of this administration. We have come again to ask for your assistance.

I will be happy to answer any questions the committee may have. Thank you for letting us make our statement.

Senator MELCHER. Without objection, the attachment to your statement will be included in the hearing record at this point.

(The resolution follows:)



NATIONAL CONGRESS OF AMERICAN INDIANS

202 E STREET, N.E., WASHINGTON, D.C. 20002 (202) 546-1168

RESOLUTION NO. 80 - 103 - PG

EXECUTIVE DIRECTOR
Russell P. Anderson
Luciana Deppauro

ASSISTANT SECRETARY OF THE INTERIOR-INDIAN AFFAIRS

EXECUTIVE COMMITTEE

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PHOENIX AREA
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Baker, West Florida

PORTLAND AREA
Leland G. Bray
Shelburne, Vermont

SACRAMENTO AREA
R. J. J. J. J.
Sacramento

SOUTHEASTERN AREA
Leland G. Bray
Shelburne, Vermont

WHEREAS, the National Congress of American Indians represents approximately 151 Federally-recognized Indian Tribes and represents a substantial number of individual Indians; and

WHEREAS, the NCIA is deeply concerned with the indifference and apparent lack of concern for Indian issues that has been demonstrated by the Administration of President Jimmy Carter; and

WHEREAS, the NCIA and its member Tribes have continuously advocated and demanded meaningful Tribal consultation and Self-Determination with a minimum of interference from the federal bureaucracy; and

WHEREAS, the Administration has failed to live up to commitments of meaningful Tribal consultation and commitment of advocating the right of Tribal governments in its legislative and policy-making priorities; and

WHEREAS, the NCIA strongly feels that this attitude of indifference was demonstrated by the present Administration by its handling and nomination of the next Assistant Secretary of Interior for Indian Affairs and further degraded Tribal consultation by a process which can only be labeled "window dressing" for a pre-determined decision; and

WHEREAS, several intertribal organizations as well as individual Tribes have expressed serious concern with the appointment of Mr. Tom Fredericks as the next Assistant Secretary of Interior for Indian Affairs.

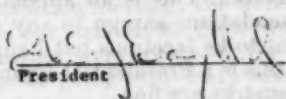
NOW, THEREFORE BE IT RESOLVED, that the National Congress of American Indians strongly condemns the interpretation that this Administration apparently has of meaningful Tribal consultation, self-determination and advocacy and protection of Tribal governments and the rights of Indian people.

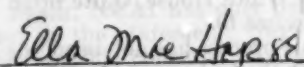
BE IT FURTHER RESOLVED, that the National Congress of American Indians oppose the reelection of Tom Fredericks as Assistant Secretary for Indian Affairs and instructs the Executive Committee of NCIA to organize testimony to that effect, present it to the Senate Select Committee on Indian Affairs and to bring to the attention of the Senate Select Committee other related concerns of the Indian Tribes and their people.

CERTIFICATION

The Executive Committee duly convened at the NCIA Mid-Year Conference in Reno, Nevada on June 18 - 20, 1980, voted to approve this resolution.

NATIONAL CONGRESS OF AMERICAN INDIANS


President


Recording Secretary

Senator MELCHER. I just have one question. What do you think of Mr. Fredericks as a person for the job?

Ms. METOXIN. This will be a personal opinion. I have not had a great deal of one-to-one contact with him except in the claims of the Oneida Nation. The Oneida Nation is not pleased with the reactions and actions of Mr. Tom Fredericks.

Senator MELCHER. The reason why I ask that question is because that is what every Senator is going to have to think about if this committee recommends that this nomination be confirmed—that is, when it comes up for a vote.

Ms. METOXIN. Mr. Chairman, unfortunately we are here again after the door has almost been closed. It is distinctly the process that we are opposing.

For any future nominations we would like this strongly considered.

Senator MELCHER. This is an appointment for an Assistant Secretary. Recommendations can go to any sitting President. Good luck.

I do not want to be facetious but I suppose every President has his own style and this is a Presidential appointment of a rather high level. I think your remarks are fine.

As you know, we asked the Secretary what process he used in pushing a name up to the President and the White House. Quite often Presidents make their appointments as they see fit.

I just want to say, in all fairness, that this process has not been one of total running rampant or roughshod over the feelings of the Indian community. I have known a lot of cases of Presidential appointments wherein Assistant Secretaries and, of course, Secretaries, were chosen and the people who were directly involved with them received very little consultation and had very little input at all.

Maybe there could have been a better working up to this for the President to make his nomination. Maybe it could have been better, but I do not want to make it seem that this is an all-time high or an all-time low in the process. It is sort of in the middle.

Ms. METOXIN. We have referred to the President's promise.

Senator MELCHER. Yes; I understand that. I very much understand that.

Ms. METOXIN. That is the basis on which this position is developed.

I would like to defer some comments, if I may, to Ron Andrade, who is the executive director and has much closer contact with all of the tribes nationally.

Senator MELCHER. Surely.

Mr. ANDRADE. Mr. Chairman, NCAI's concern is that we recognize that this is a Presidential appointment and that the President has his own prerogatives. We also recognize that with some other appointments within the Department of the Interior, particularly Mr. Herbst and some others, they had extensive consultation with the States and extensive consultation with county governments regarding their positions and what their feelings were about each candidate.

Senator MELCHER. Which one was that?

Mr. ANDRADE. I believe in this case of Mr. Herbst that—

Senator MELCHER. Do you think he had a lot of consultation with me on that appointment? I represent a State that is directly involved

with whatever Mr. Herbst ever does or does not do and I was not consulted.

Mr. ANDRADE. Mr. Chairman, I understand that the President has not consulted with much of the Congress in many of the actions he has taken. What I am saying is that he did consult with people outside of the Government.

Senator MELCHER. You mentioned Mr. Herbst. I want to straighten that out. He did not consult with me about Mr. Herbst and I do not think he lost a bit of sleep over it either.

Mr. ANDRADE. I really do not think that he has lost much sleep over not telling us about this nomination either, sir.

Our concern is that there is a process. There could have been a very simple process during the meeting of February 26. I think that you could talk to most of the people who were present at the meeting and learn that it was not a consultation meeting. We were told openly in the first statement, "This is our candidate. Now we can talk."

All of the people at that meeting were aware of the nomination that was going to be made prior to going into that room. It was no surprise. There were no new announcements. We all knew what was taking place. I think that is our concern.

Again, NCAI has only dealt with the nomination process. As we said in the statement, there are other tribes here that must voice their specific concerns. We try not to speak on their behalf in those areas, but we are concerned that the President, without any kind of discussion with the tribes—this is the most important position that we have in terms of the Federal Government, the highest ranking position.

Senator MELCHER. I do not want my remarks to be a reflection on President Carter in his nomination of Mr. Herbst. I just want to make it clear that I was not consulted.

Also, you ought to know that I was not consulted about the appointment of Mr. Fredericks. I was told after the selection had been made, but I was not consulted.

I think the Indian community should be consulted on this nomination, very much so. I am not holding it against President Carter that I was not consulted and I am not holding it against him that he did not consult me on Mr. Herbst or a number of other appointments in the Department of the Interior that have a really great impact on my State.

Mr. ANDRADE. I do not know if we should be happy that he has not at least broken his record of not telling anybody about his appointments prior to making them.

Senator MELCHER. I think the February 26 meeting was something though. Perhaps they had already made up their minds on the appointment, but at least they did not ignore you on February 26.

Mr. LOVATO. Mr. Chairman, my name is Del Lovato.

Senator MELCHER. Please proceed.

Mr. LOVATO. I am the first vice president of the National Congress of American Indians. I do not know what it is, but for some reason we Indians find it difficult to speak to some of these points that need to be spoken to.

I chaired the meeting when this particular resolution, which was submitted for the record earlier, was adopted. I met with the various

area tribes before the resolution was even brought to the floor of the conference. There is concern. There is a lot of concern in Indian country about Mr. Fredericks and some positions that he has taken.

We are concerned about Mr. Fredericks' ability to fully carry out what is in the best interest of the Indian people, especially with an administration such as we have seen this past 4 years; namely, one that has, I think, refused to give Indian issues proper attention.

I just wanted to make that point, sir.

Senator MELCHER. I think it is a very good point.

Did you want to complete your statement now, Del?

Mr. LOVATO. Sure.

Senator MELCHER. Alright, please proceed.

Mr. LOVATO. I did not want to offend my good friend Kenny Black here. I just thought the point ought to be made.

STATEMENT OF DELFIN LOVATO, CHAIRMAN, ALL INDIAN PUEBLO COUNCIL; ACCOMPANIED BY ALVINO LUCERO, GOVERNOR, ISLETA PUEBLO TRIBE; AND PAUL TAFOYA, GOVERNOR, PUEBLO TRIBE, SANTA CLARA

Mr. LOVATO. I am here testifying as the chairman of the All Indian Pueblo Council, not necessarily as the vice president of NCAI. I think the Pueblo people took a position back in January, when we found out through our own sources that an individual was already selected by the Secretary and that they were proceeding with his name to the President for his nomination to be the next Assistant Secretary.

I, with the advice and consent of my executive committee, sent a telegram, saying: "What are you doing? I thought you promised us consultation. What consultation have we had?"

We understand the politics of the situation and of the positions here, but I think that we were very much offended by the manner in which that particular matter was being handled.

We registered our opposition. As the result of a lot of outcry in Indian country they agreed to go through a process, a process which turns out to be nothing more than window dressing. Be that as it may, they have done that.

I think our point, Mr. Chairman, to make a long story short, is that we are concerned. We are concerned about the policies that this administration has developed or has failed to develop.

I have two examples of it right here before me that I would like to have introduced for the record. One has to do with the *Martinez* Supreme Court case, which you were discussing earlier. The other has to do with the interpretation of the *Culver* case, also a Supreme Court decision, dealing with buy-Indian road construction contracts.

I would also like to discuss the whereabouts of the Institute of American Indian Arts—

Senator MELCHER. First of all, Del, I want to make your prepared statement and those two papers that you mentioned a part of the record right at this point, without objection.

[The material follows. Testimony resumes on p. 95.]

PREPARED STATEMENT OF DELFIN J. LOVATO, CHAIRMAN, ALL INDIAN PUEBLO COUNCIL

My name is Delfin Lovato, I am Chairman of the All Indian Pueblo Council which represents the Pueblo tribes of New Mexico. Accompanying me today are: Governor Alvino Lucero of Isleta Pueblo; Governor Paul Tafoya of Santa Clara Pueblo; Paul Bernal, Member of the Taos Pueblo Council; and Benny Starr, official Spokesman and Councilmember of the Pueblo of Santo Domingo.

The All Indian Pueblo Council strongly supported the establishment of an Assistant Secretary of Interior for Indian Affairs. Our support was based on our belief that such a position was necessary to place Indian issues on a par with other Interior matters and provide a strong advocacy for Indian people within the Department of Interior. We are extremely disappointed that this has not been the case. Instead, we find that the fundamental principals upon which our relationship with the Federal Government is dependent on, have been ignored.

The role of the Assistant Secretary for Indian Affairs appears to be nothing more than a mouth piece for the Secretary of Interior and its policies, rather than one of advocacy for Indian interests. The vital elements of tribal consultation and communications on Indian Policy matters and key appointments have been ignored or have been a farce. We find that on key Indian issues the decisions are made on the basis of political expediency for the Under Secretary or a member of Congress, rather than on the basis of merit and facts.

It is within this feeling of despair and frustration that we come before you today in opposition to the confirmation of President Jimmy Carter's nomination for the Assistant Secretary of Interior for Indian Affairs. Eighteen of the nineteen Pueblo tribes strongly feel that the process and procedure that was utilized by this administration in the nomination process is a direct affront to the integrity of tribal governments and the Indian people of this country and has made a mockery of tribal consultation. We feel that a decision was already made and that the request for tribal input was mere window dressing.

Our position is not based on personal animosity, or due to his lack of credentials. Our position is based on a lack of confidence in his ability to truly advocate for the best interest of Tribal Governments and Indian interest. This lack of confidence has been expressed by a number of Indian tribes in this country. We are concerned about the nominees position and psychology on key issues, such as water rights and the relationship between a tribe and its members, or with the Federal Government. We are concerned about the nominees position regarding the powers of tribal governments over its people and resources. Lastly, we strongly believe that the nominee will not reflect the position of tribal governments, but will continue to reflect the Interior Department and special interest groups which are usually in conflict with tribal governments.

Mr. Chairman and members of the Committee, perhaps it is difficult for you to fully understand the frustration of our people with the current status of Indian affairs administrations in this country. The problem is not only with BIA, but with how this administration is dealing with Indian issues. Let me cite four important examples from our area alone:

1. Geothermal.
2. Martinez Case.
3. Statute of Limitations.
4. Institute of American Indian Arts.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

ALBUQUERQUE AREA OFFICE

P.O. BOX 8337

ALBUQUERQUE, NEW MEXICO 87196

IN REPLY REFER TO:

Contracts & Grants

JUN 20 1980

Memorandum

To: Superintendents, Albuquerque Area
Field Representative, Pueblo of Zuni
President, Institute of American Indian Arts
President, Southwestern Indian Polytechnic Institute
Officers, Office of the Area Director
Division and Branch Chiefs, Albuquerque Area Office

From: Area Director

Subject: Decision regarding Buy-Indian Authority in Road Construction Projects

Attached is the Supreme Court's decision which holds that the Buy-Indian Act does not authorize entering into contracts with Indian-owned companies without first advertising for bids pursuant to the Federal Property and Administrative Services Act.

We have, additionally, received instructions from the Acting Deputy Commissioner of Indian Affairs that the ruling precludes awarding or soliciting on Labor set-asides, 8(a), and Small Business set-asides. Construction, other than Roads, is also prohibited using Buy-Indian Authority.

Kenneth H. Payton
Deputy Area Director

Attachment

1-1-80
(7)

THIS IS TO SUPPLEMENT MY MAY 30 TELEGRAM RE ANDRUS VS CLOVER. IN ADDITION TO ROAD CONSTRUCTION, EFFECTIVE IMMEDIATELY AND UNTIL FURTHER NOTICE, NO CONTRACTS FOR CONSTRUCTION NEGOTIATED UNDER THE BUY INDIAN ACT SHALL BE AWARDED AND NO NEW BUY INDIAN SOLICITATIONS FOR ANY CONSTRUCTION SHALL BE ISSUED. IN ADDITION, BECAUSE THE DISTRICT COURT ENJOINED US FROM CIRCUMVENTING THE ADVERTISING REQUIREMENTS OF 41 USC 253 FOR ROAD CONSTRUCTION, EFFECTIVE IMMEDIATELY AND UNTIL FURTHER NOTICE, YOU SHALL MAKE NO AWARDS OR ISSUE NEW SOLICITATIONS OF OTHER THAN FORMALLY ADVERTISED CONTRACTS. THIS PRECLUDES AWARDS OR SOLICITATIONS ON LABOR SURPLUS ^{4 Small Business} SITUATIONS, 2(A) AND SMALL PURCHASES HOWEVER, IT IS IMPORTANT THAT CONTRACTING FOR CONSTRUCTION CONTINUE AND OBLIGATIONS THEREFORE BE MADE ON A TIMELY BASIS, USING STANDARD CONTRACTING PROCEDURES UNTIL OTHER OPTIONS AGAIN BECOME AVAILABLE.

135400 URGENT

BUY INDIAN (25 USC 47)Introduction

This is a source unique in Interior to the Bureau of Indian Affairs. It is the fifth priority source of supply. It is a mandatory use source.

Buy Indian firm

A Buy Indian firm is defined as one that is 100% owned and controlled by a member or members of a Federally Recognized tribe(s). The firm must make such certification in writing.

Waivers

Exceptions to use can be obtained under the following conditions:

1. Reasonable quantity or delivery schedules cannot be met.
2. The technical quality of the specific item required to meet the end use of the activity is not available from a Buy-Indian concern.
3. Competition not available from Buy Indian and cost is excessive over that obtainable from a lower priority source.
4. Where trade-in considerations make cost from the Buy Indian source excessive.

Document in the file justifications for non-use of Buy Indian.

Ordering

Both Agency and Area procurement personnel should maintain bidders mailing lists of products or services offered by Buy Indian concerns.

Where more than one Buy Indian firm is available each must be given the opportunity to bid the requirements with the lowest priced responsive bidder being selected as the supplier.

A fair and reasonable price must be obtained. Use small purchase procedures contained in FPR 1-3.6 when procuring from this source.

Payment

Upon receipt, the receiving report and the invoice are processed through the Branch of Finance using standard procedures.

Special Considerations

Where a procurement is estimated to be in excess of \$5,000 it is required that a synopsis be published in the Commerce Business

Daily. (See 41 CFR 1-1.1003)

The synopsis for request for quotes should include agency name and address, synopsis number, type of procurement, opening due date, number, contact person and phone number, and for Buy Indian the restriction (in all caps, RESTRICTED TO INDIAN OWNED AND CONTROLLED COMPANIES).

To: Joe Baca, AIDC Executive Director

From: Eric D. Eberhard, General Counsel

Re: Legal Background on the Buy Indian Act, Indian Self-Determination Act Section 7(b) Preference and SBA Section 8(a) Minority Business Development Program

Date: June 6, 1980

I. Introduction

The purpose of this memo is to provide you with basic legal information relating to the above referenced federal laws. Substantial data collection and analysis would be required in order to be able to draw sound conclusions as to the overall effectiveness of the administration of these laws. Some of the necessary data would very likely be available through the BIA and SBA pursuant to the Freedom of Information Act.

Matt Leggett has prepared comments (copies attached) on his experience as a business development specialist attempting to assist Indian owned businesses with contracting under the Buy Indian Act and the SBA section 8(a) program. Mr. Leggett's experience, and that of other Indian BDO's, strongly suggests that the federal laws intended to encourage Indian business development have failed to achieve their purpose. This memo will attempt to provide some insight into the background of those laws and to suggest a few changes in the law which should be beneficial to Indian entrepreneurs.

II. The Buy Indian Act 25 U.S.C. §47

A. Legislative History

There is little formal legislative history on the Buy Indian Act. On April 30, 1908 the Congress passed a general appropriations measure for the Indian Department, 35 Stat. 70. The portion of this act which authorized the Secretary of Interior to purchase supplies and/or to construct wells, ditches and irrigation systems, also stated:

Provided further, That as far as practicable Indian labor shall be employed and purchase in the open market made from Indians, under direction of the Secretary of Interior.
35 Stat. 71 (Emphasis Original)

On June 25, 1910 the Congress enacted amendments to the Allot-

ment Acts. 36 Stat. 855. These amendments contained numerous provisions not directly related to the allotment program, including a provision which required the Secretary to follow general federal procurement law when purchasing supplies for the Indian Service:

Provided, That so far as practicable Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Interior. All Acts and parts of Acts in conflict with the provisions of this section are hereby repealed. 36 Stat. 861 (Emphasis Original)

This law has now been codified at 25 U.S.C. §47.

B. Regulations

1. The IHS has published regulations for the Buy Indian Act at 41 C.F.R. §3-4.57 through 3-4.5705. These regulations state that the secretary of HEW is authorized to use the Act "in the purchase of the products of Indian industry in connection with the maintenance and operation of hospital and health facilities for Indians."

Section 3-4.5703 provides that Indian firms must be 100% Indian owned during the period covered by a Buy Indian contract unless the Area Director approves a smaller percentage of Indian ownership. In no event may the Indian ownership share be less than 51%. Joint venture contracts between Indian and non-Indian firms must provide for the Indian firm to be the managing partner and must be approved by the contracting officer. All Buy Indian contracts must contain language requiring the contractor to grant Indians preference in employment and subcontracting. Buy Indian contractors engaged in the "construction, alteration or repair of public buildings" must obtain bid, performance and payment bonds in conformity with 40 U.S.C. §270a.

Section 3-4.5704 provides that Buy Indian contracts are to be subject to competition among Indians to the maximum extent determined to be practicable by the contracting officer. This section also requires IHS procurement officers to notify Indian Tribes, "Indian firms and others" of proposed procurements and that "qualified Indian firms will be given preference in the award of such contracts."

Section 3-4.5705 allows for the negotiation of a Buy Indian contract only if the procurement officer determines that:

(1) "the project or function to be contracted for is likely to be

satisfactorily performed . . . [and] completed..."; (2) the Indian firm's ownership is at least 51% Indian; (3) the firm has the necessary facilities and equipment "to assure the efficient and orderly performance of the contract..."; (4) the firm has adequate bookkeeping and accounting procedures; (5) the firm has experience with and substantive knowledge of the contract or function to be contracted; (6) the firm has adequate numbers of employees who are competent to perform the contract; and (7) the firm has the experience and financial ability to manage the contract in light of present and potential commitments to other projects.

In addition to applying to the Buy Indian Act, the IHS regulations also apply to contracts for the renovation of service facilities and the construction of safe water and sanitary waste disposal facilities under the preference provisions of the Indian Health Care Improvement Act (P.L. 94-437), 25 U.S.C. §1633. The provisions of section 3-4.5705 of the regulations are those imposed by the express language of 25 U.S.C. §1633.

2. The BIA has not published formal public rules for the administration of the Buy Indian Act. Rather, the Bureau has developed internal regulations which are found at 20 B.I.A.M. 2 which provides:

Policy. It is the Bureau's policy that all purchases or contracts be made or entered into with qualified Indian contractors to the maximum extent practicable and to contact non-Indian contractors only after it has been determined that there are no qualified Indian contractors within the normal competitive area that can fill and are interested in filling the procurement requirement.

20 B.I.A.M. 2.1

Indian contractors must be 100% Indian owned and controlled. "Normal competitive area" is defined as "the geographic area within which competition is usually solicited to fill a procurement requirement."

Contracting officers are required to: (1) determine that the Indian firm is 100% Indian owned; (2) obtain competition between Indian firms; and (3) maintain a list of eligible Indian contractors and furnish the same to other BIA contracting officers. The Contracting and Grants Administration staff of the BIA Central Office are required to implement and review the administration of the Buy Indian Act.

It should be noted that 20 B.I.A.M. 2 was issued to Bureau employees on July 20, 1979. Prior to that time the Bureau followed 20 B.I.A.M. 5 which was issued on May 21, 1971. The requirements of 20 B.I.A.M. 5 were more explicit and detailed in their directions

to Bureau contracting and procurement officers and were substantially the same as the regulations which governed the early SBA section 8(a) program.

C. Case Law

The Buy Indian Act has recently been the subject of litigation culminating in the decision of the United States Supreme Court in Andrus v. Glover, 48 U.S.L.W. 4593. This case raised the issue of whether the BIA can use the Buy Indian Act to enter into road construction contracts without first advertising for bids pursuant to 41 U.S.C. §§251-256, the general federal procurement laws. The BIA had solicited bids from three Indian firms for the repair of a short stretch of road in Oklahoma. A non-Indian road construction firm was not granted the opportunity to bid and the contract was awarded to an Indian firm. The owner of the non-Indian firm sued the BIA on the ground that the Bureau violated the general federal procurement laws by failing to provide for advertising and bids on the contract.

On May 27, 1980 the Supreme Court ruled that the Bureau is required to advertise for bids on all of its road construction contracts pursuant to 41 U.S.C. §252. From the express language of section 252, the Court found that the Congress intended to "bar" the negotiation of road construction and repair projects under the authority of laws like the Buy Indian Act." 48 U.S.L.W. 4595. The Court also held that section 252 did not "repeal" the Buy Indian Act. Indeed, the Court stated that with the exception of road construction and repair contracts, the general procurement laws do not "in any manner displace the provisions of the Buy Indian Act." Id.

III. Indian Self-Determination Act Section 7(b) Preference 25 U.S.C. §450e(b)

A. Legislative History

There is no available legislative history on the preference provisions of the Self-Determination Act. The Act provides that, with reference to contracts or grants made pursuant to the Act, or any other federal law which authorizes grants to Indian Tribes and organizations:

- (1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) preference in the award of sub-contracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises. . . .
25 U.S.C. §450a(b)

Indian organizations are defined in 25 U.S.C. §1452 as Tribal governing bodies or entities established or recognized by the governing body. Indian owned economic enterprises must be at least 51% Indian owned and the Secretary of Interior may require a higher degree of Indian ownership.

B. Regulations

The BIA has published regulations at 25 C.F.R. §271.44 to implement the preference provisions of section 7(b). These regulations provide that all contracts between a Tribal organization and the Bureau shall contain language which requires the Tribal contractor, "to the greatest extent feasible", to give employment and training preferences to Indians. Indian owned economic enterprises are to be granted preference for subcontracts. The contracting Tribal organization is also required to submit a plan for achieving the maximum use of Indian personnel under the contract. Tribes are permitted to develop their own preference criteria so long as such criteria conform to the requirements of section 271.44.

IV. SBA Section 8(a) Minority Business Development Program 15 U.S.C. § 637

A. Legislative History

The section 8(a) program was a part of a major Congressional effort to reform the Small Business Act and the Small Business Development Act in 1978 through P.L. 95-507. Minority Enterprise Small Business Investment Corporations (MESBIC's) were provided with increased capital for reinvestment in small business concerns. Minority businesses were granted the contracting preferences of section 8(a), more liberal bonding terms and enhanced technical assistance. Prior to P.L. 95-507, the 8(a) program had been operated by the SBA without express Congressional authorization. Sen. Rept. 95-1070 at 8, 14.

Through Executive Orders issued by Presidents Johnson and Nixon, the SBA administered the 8(a) program from 1967 through 1978 with Congress providing legislative guidance through the annual appropriation process. The impetus behind the operation of the 8(a) program for the benefit of minority businessmen was the conclusion

reached by the 1967 Report of the Kerner Commission on Civil Disorders to the effect that one of the fundamental causes of the ghetto riots of the 1960's was the fact that blacks and other minorities had been unable to share in the general economic prosperity brought about by the free enterprise system. The 8(a) program was redirected from small businesses in general to minority owned small businesses in an effort by the federal government to foster minority business development. Id., 124 Cong. Rec. 15196 (Remarks of Senator Weicker, Sept. 15, 1978)

In this regard, it should be noted that when P.L. 95-507 was first passed by the House of Representatives, it contained definitions of minority enterprises which expressly referred to and may have created a preference for black and Hispanic owned small businesses. The Senate rejected this approach in favor of a more general definition of minority businessmen as those who had suffered social and economic disadvantages due to cultural bias and general economic deprivation. 124 Cong. Rec. 15191-15205. The Senate ultimately prevailed in the final version of P.L. 95-507.

The Congressional reform of the 8(a) program was prompted by the virtual failure of the program to provide any meaningful assistance to minority businesses. In fact the Congress declared that the 8(a) program was a program of business failure, not success. 124 Cong. Rec. 15199. The facts were compelling: Between 1968 and 1977 the government had let \$2.2 Billion in federal procurement contracts to participants in the 8(a) program. In 1978, the SBA could only locate 67 of those contractors and of that number only 33 were still in business and operating with a positive net worth. [Note that in 1977 there were 85 Indian firms participating in the 8(a) program out of a total of nearly 1,500 participants.] 124 Cong. Rec. 15197, Sen. Rept. 95-1070 at 14.

It was clearly the intention of the Congress to remedy the problems encountered in the 8(a) program by providing clear statutory direction for the administration of the program by the SBA. Thus, a heavy emphasis was placed on defining eligibility and the provision of technical assistance to 8(a) participants. In addition, P.L. 95-507 provided for additional SBA staff to monitor the procurement process to identify contracts suitable for minority businessmen. Prime federal contractors were required to develop and submit comprehensive plans for minority subcontracting. Minority businesses were required to develop and submit to SBA comprehensive business development plans. The SBA was given increased bond guarantee authority and the ability to waive or modify general federal procurement bonding requirements for minority firms which are new to the 8(a) program.

P.L. 95-507 did not alter the basic SBA role under the 8(a) program. SBA is still charged with the responsibility for identifying both eligible minority business concerns and federal contracts which are suitable for those businesses. SBA then enters into an

agreement to perform the procurement contract. Any federal agency may decline to enter into a contract with the SBA, but such a declination must be reviewed by the head of the agency at the request of the SBA. 15 U.S.C. §637

B. Regulations

The basic regulations for the 8(a) program are found at 13 C.F.R. §124. The regulations are largely given over to issues of eligibility for and termination from the 8(a) program. To the extent that the regulations deal with the substantive duties of the SBA under the 8(a) program, the language and requirements of the statute are fairly faithfully followed by the regulations.

V. Comments and Suggestions

A. Buy Indian Act

1. It is apparent that the Congress has never thoroughly addressed the potential usefulness of the Buy Indian Act as a tool to further Indian economic development. Moreover, the lack of detailed BIA regulations for implementation of the Act evidences a disregard for effective approaches to the problems of developing Indian economies. I suggest that the present Buy Indian Act be repealed and a new, more comprehensive law be enacted.

2. Remedial legislation is needed immediately to counter the effects of the Supreme Court's decision in *Andrus v. Glover*. Such legislation could be quite straightforward and simply amend 41 U.S.C. §§251-256 to provide that Indian preference in contracting shall apply to all federal procurement under programs intended to benefit Indians and/or all procurement which results from federal expenditures to or by Indian Tribes, groups and organizations.

B. Indian Self-Determination Act Section 7(b) Preference

1. This law is largely directed at Indian Tribes or organizations which contract for BIA and IHS programs under P.L. 93-638 and requires the contractor to guarantee Indian preference in employment, training and subcontracting. At the present time, I do not know of any reliable data which demonstrates the level of activity and/or the degree of compliance with 7(b). An effort should be made to compile such data.

2. Given the lack of legislative history and the brevity of the regulations pertaining to 7(b), it is possible that there has been little enforcement of the preference requirement. At present it would appear that the only way for a party who has been denied preference to seek relief would be through Tribal procedures, if any, or by requesting that the Secretary reassume the duties

contracted to the Tribe because of the Tribe's failure to provide the required preference. This situation could be remedied through the promulgation of regulations under 7(b) which provide an aggrieved party with an opportunity for a hearing in the event of a denial of preference.

C. SBA Section 8(a) Minority Business Development Program

1. It appears that this program was not really designed to specifically address the problems of Indian businessmen. Rather, the clear Congressional intent was to use this program to address the general lack of successful minority entrepreneurs and blacks and Hispanics in particular.

2. To the extent that Indians may want to participate in the 8(a) program, the law should be amended to expressly provide that Indian 8(a) participants shall be granted preference in all procurements intended for the benefit of Indians and/or which will primarily be performed in Indian Country.

VI. Conclusion

It appears that all of the preference programs are seriously flawed either in concept or in execution. Programs for Indian preference have been enacted on a piecemeal basis over a period of more than seventy years. Most of these programs lack any meaningful provisions for technical assistance.

What is needed is a comprehensive reform of all of the Indian preference laws which apply to Indian contractors under federal procurement programs. An institution such as AIDFI could play a major role in the development, implementation and administration of such laws. In fact, it would appear that AIDFI would be remiss in its developmental role if it fails to seriously address Indian preference issues as part of its overall mission.

I will be pleased to answer questions or to attempt to provide any additional information you may desire.

An Analysis on Implementation of the Buy Indian Act

The Buy Indian Act was enacted as a proviso to Section 23 of the Act of June 25, 1910. As stated in 25 U.S.C. 47, the Buy Indian Act provides as follows:

"So far as may be practicable Indian labor shall be employed and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of the Interior."

When the Buy Indian Act was enacted in 1910 the Indian Health Service (IHS) was under the Department of Interior and therefore is subjected to it as is the Bureau of Indian Affairs (BIA). However, on July 1, 1955 IHS was transferred to the Department of Health, Education and Welfare (DHEW) by Public Law 568, 42 USC 2001. The BIA and IHS now have their own separate directives which implement the Buy Indian Act. The IHS directive is contained in the Code of Federal Regulations, Title 41, Chapter 3, subpart 3-4.57 and the BIA directive is contained in Bureau of Indian Affairs Manual 20, parts 2 and 5. Both of these directives are somewhat general in nature and without the specifics necessary to govern in many situations. This lack of specifics requires the Contracts/Procurement Officers in the numerous BIA and IHS Area Offices to make decisions in interpreting the directives and these interpretations vary considerably among the offices. Examples of inconsistency in implementation of the Buy Indian Act by BIA and IHS are listed below.

Directives implementing the Buy Indian Act do not discuss the the purchase of common items that are procured by a central

government agency such as GSA. Some offices send all their requirements for the common items to the central procuring agency. Some offices require Indian firms to compete with the published prices that these items have been contracted for by the central agency. Others will buy these items from an Indian firm and require his prices to meet local competition.

Some offices have no Buy Indian policy. That is, Indian firms are merely listed on their bidders mailing list along with all other firms and compete for procurements just as non-Indian firms.

Some offices set aside procurements for Indian firms, but only on a competitive basis among two or more Indian firms. They will not negotiate with only one when that firm is the only Indian firm that sells the item.

Some offices advertise procurements in the Commerce Business Daily as a Buy Indian set aside and attempt to get nation wide competition. Others will attempt to get competition among Indian firms within their normal competitive area and, the interpretation of what a normal competitive area varies among the offices.

Buy Indian policy changes in some offices when a new contracts/ Procurement Chief is assigned as he interprets the directives differently from his predecessor:

The Buy Indian procurement directives do not contain provisions for advance payments and small struggling Indian firms often go without payment for several months when a receiving report has been delayed or the last item on the purchase order is delayed in delivery.

The problems mentioned above have severely hampered effective implementation of the Buy Indian Act. Indian firms are generally confused about government Buy Indian policy and many receive little to no economic assistance from it.

An Analysis of Implementation of
the Small Business Act

Section 8(a) of the Small Business Act (15 USC 637(a)) authorizes the Small Business Administration (SBA) to enter into all types of contracts with other Government departments and agencies and negotiate subcontracts (commonly referred to as 8(a) contracts) for the performance thereof. These subcontracts are negotiated with small business concerns which are owned and controlled (at least 51%) by socially and economically disadvantaged persons to assist them in achieving a competitive position in the market. In addition to meeting the eligibility criteria a firm must submit a business plan which substantiates how it can successfully perform contracts under the 8(a) program with contract, financial, technical and management support and with such assistance have reasonable prospects for success in competing in the private sector. In reviewing and approving the business plan the SBA determines the amount of contract, financial, technical and management support required and available to assist the firm in achieving its objectives. The SBA is then responsible for securing/providing this support until the firm has substantially achieved the objectives of the 8(a) program, including but not limited to, the achievement of the goals set forth in its business plan as approved and modified, and the attainment of demonstrated ability to compete in the market place without 8(a) assistance, or been terminated from the program for other justified reasons.

The objectives of the 8(a) program are basically good, however

implementation of it by government agencies, and particularly the SBA, has been less than satisfactory. Some examples of this lack of effective implementation are as follows:

The processing time required to approve a business plan normally exceeds six months and it is often outdated by the time it is approved. Unrealistic business plans are approved requiring inadequate support.

Business plans are not updated and thus support of them becomes unrealistic. In one case almost two years passed before an approved firm received its first support in the form of an 8(a) contract. By then the business plan was significantly outdated.

There has been a lack of effort by the SBA to support the goals of approved business plans. SBA personnel have not exercised adequate initiative in contacting other government agencies to review their requirements and secure contracts to fulfill the objectives of business plans. There is reluctance by some government (Non SBA) procurement personnel to set aside contracts for the 8(a) program due to concern that their requirement will be awarded to a firm that cannot adequately perform the contract and since SBA is awarding it they will have no control over the contractors performance.

Little to no on the scene technical assistance has been provided to the firms in the program.

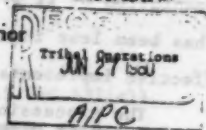
All too often SBA personnel appear too busy doing government paperwork to assist the firms in the program.

In summary the program has basically good objectives. However, it takes too long for a business plan to be approved; SBA is operating with numerous unrealistic plans; and, SBA does not provide timely or adequate support of the approved plans. Too many of the small, disadvantaged firms receive only a token of the support that was promised and expected. Many learn that should they rely on it they are likely to become part of the business failure statistics.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
ALBUQUERQUE AREA OFFICE
P.O. BOX 2327
ALBUQUERQUE, NEW MEXICO 87106



Memorandum

JUN 24 1980

To: Tribal Leaders, Albuquerque Area
Agency Superintendents, Albuquerque Area
Division Chiefs, Albuquerque Area
Branch Chiefs, Albuquerque Area

From: Area Director

Subject: Interior Department/Bureau of Indian Affairs Policy
Regarding Relationship with Tribal Governments

Enclosed please find a policy statement on conduct of affairs in the wake of the Supreme Court decision in Martinez v. Pueblo of Santa Clara.

Effective immediately, the statement should be used as a guide in the event of a breach of the terms of the political relationship existing between the United States and Indian tribes as embodied and defined in tribal governing documents.

Detailed discussion with the tribes is being planned under a contract with the National Congress of American Indians.

Keith L. Ryan
Deputy Area Director

Attachments



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C. 20245

Tribal Government Services

JUN 18 1980

Memorandum

To: Central Office Directors, Area Directors, and Superintendents
From: **Acting Deputy** Commissioner

Subject: Interior Department/Bureau of Indian Affairs Policy regarding relationship with Tribal Governments, attached.

Attached is a policy pronouncement of June 12 from the Assistant Secretary - Indian Affairs, on the above subject.

This policy statement has been issued, following two years of effort, in the wake of the Supreme Court Martinez decision of May, 1978. In addition to a general statement of policy regarding the Martinez decision, it is designed to provide guidance to Bureau personnel - Area Directors, Superintendents, and Central Office - in instances when there may be an actual or suspected deliberate breach of the terms of the political relationship existing between the United States and Indian tribes as embodied and defined in tribal governing documents.

Because of the widespread effect of this policy pronouncement, copies are being mailed to all Agency Superintendents as well as to Area Directors, and to appropriate Regional and Field Solicitors. If and when travel ceilings permit, it is suggested that Area Directors hold meetings with Superintendents for the purpose of discussing this policy statement in some thoroughness, since it represents new guidelines for dealing with tribal governments and tribal officials in certain circumstances.

It should be noted that although the policy is effective and operative for Bureau personnel immediately, it has not yet been discussed with tribes or tribal leaders in any substantial way. However, under a contract entered into for the purpose by the Bureau with the National Congress of American Indians, NCAI will hold a series of field hearings with tribal leaders for the purpose of discussing and explaining the policy and receiving tribal reaction to it.

In the meantime the policy is effective immediately and should be implemented wherever it is applicable to existing situations.

Frederick S. Humphreys
Acting Deputy Commissioner of Indian Affairs

Attachment

CONSERVE ENERGY
BUREAU OF INDIAN AFFAIRS
ALBUQUERQUE AREA OFFICE

JUN 23 1980

Save Energy and You Serve America!

AREA DIRECTOR'S OFFICE



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



MEMORANDUM

JUN 12 1980

To: Commissioner of Indian Affairs

From: ^{Acting} Assistant Secretary - Indian Affairs

Subject: Interior Department/Bureau of Indian Affairs Policy Regarding Relationship with Tribal Governments

The purpose of this memorandum is to establish Departmental policy guidance for dealing with tribal governments in the wake of the Martinez decision.

I. BACKGROUND

The need for establishing such policy arises from the May 15, 1978, Supreme Court decision in Santa Clara Pueblo v. Martinez. While the Martinez decision does not form the entire basis for this policy, it has given impetus to the need for a policy regarding the relationship between Indian tribes and the United States.

In the Martinez decision, the Supreme Court held that, except for habeas corpus, the Indian Civil Rights Act of 1968 (ICRA) does not provide access to the Federal courts for individuals who feel their civil rights have been violated by actions of their tribal government. Rather, the Court determined that such matters are to be resolved through the use of tribal forums.

In the Martinez decision, the Court also reviewed the legislative history of the Indian Civil Rights Act to show that the Congress rejected proposals to give the Department of the Interior administrative review of alleged violations by tribal governments of the civil rights of individuals. Consequently, neither this Department nor the Federal courts constitute a forum wherein individuals who allege violations of the Indian Civil Rights Act by tribal governments may be heard.

Rather, the Martinez decision has clearly placed the responsibility and the authority for enforcement of the Indian Civil Rights Act on tribal governments. In its discussion of the decision the Court said, "In addition to its objectives of strengthening the position of individual tribal members vis-a-vis the tribe, Congress also intended to promote the well established Federal policy of furthering Indian self-government."

Therefore, the Martinez decision has had the practical effect of reinforcing the authority of Indian tribes to truly self-govern. By doing so, it has provided them with both the opportunity and the responsibility to strengthen their tribal governments and create an atmosphere of respect for those tribal forums charged with protecting individual rights.

II. INDIAN CIVIL RIGHTS ACT

With that background in mind, it is essential that actions of personnel of the Bureau of Indian Affairs reflect and adhere to the following in respect to the Indian Civil Rights Act:

1. The Bureau is genuinely concerned that tribes adhere to the requirements of the Indian Civil Rights Act which places serious responsibilities on tribal governments to protect the civil rights of individuals under their jurisdiction.

2. The Bureau of Indian Affairs, however, can not and will not constitute a forum wherein individual tribal members might seek redress for alleged violation of the Indian Civil Rights Act by a tribal government.

3. Rather, recognizing the additional support for the concept of self-government that the Indian Civil Rights Act provides for tribes, the Bureau will actively work to help tribal governments develop forums which will enable them to deal fairly on issues relating to this Act. In so doing, the Bureau must respect the sovereignty and uniqueness of each tribal entity, while being prepared to encourage and assist within available resources in the following:

- (a) The development, amendment or revision of tribal constitutions, law and order codes, judicial procedures, and other governing documents as appropriate.

- (b) The provision of technical assistance for civil rights studies when requested by tribes.

- (c) Assurance of appropriate training programs for judges, law enforcement personnel, and other tribal staff.

- (d) Through the Solicitor's Office, provision of legal interpretations on civil rights matters when requested.

- (e) Establishment and strengthening of fair and objective tribal judicial systems.

4. The Bureau expects each tribe to abide by the terms of the political relationship it has with the United States. A breach of the terms of the political relationship may result in an alleged violation of the civil rights of an individual; however, it is important to distinguish that the actions to be taken as set out in the following are not directed at the alleged violation, which will be handled in a tribal forum, but rather at the breach of the terms of the political relationship.

III. POLITICAL RELATIONSHIP WITH TRIBAL GOVERNMENTS (Political Relationship Policy)

This part of the policy statement is made with full understanding and appreciation of the fact that hard and fast rules concerning a political relationship cannot be drawn. Political developments and realities external to this Department will be present at a particular time with regard to a particular set of circumstances that will require deviation from this general policy guidance. Any such deviation will be authorized or made by the political appointees of the United States — the Commissioner, the Assistant Secretary - Indian Affairs, or the Secretary of Interior.

This policy and implementing procedures do not apply to the day-to-day administrative decisions by Bureau officials, but are designed to apply in cases of extraordinary and deliberate breach of the terms of the political relationship between Indian tribes and the United States, which may be brought to the attention of the Superintendent in several ways.

At the Agency level, this would not affect the Superintendent's responsibility to make administrative decisions concerning actions by tribal officials. In making such decisions, it may be necessary for the Superintendent to determine whether there has been compliance with the tribe's constitution. Such administrative decisions would be subject to the administrative appeals procedures in 25 CFR 2. Those matters involving an extraordinary and deliberate breach, however, would require political considerations and decisions outside the administrative review procedures set forth in 25 CFR 2.

In most instances, many of the terms of the political relationship between a tribe and the United States are specifically set forth in the tribal constitution. Where a tribal constitution provides for representative government, we consider such document as evidence of a delegation of authority from the Indian people to their elected representatives for the purpose of governing the tribe. The governing body is, therefore, responsible to the people to serve them and conduct the tribe's affairs in the manner set forth in the tribal constitution. The tribal constitution also defines certain terms of the political relationship between the tribe and the United States. Each party to that relationship, therefore, has a right to expect the governing document to be honored.

There are a number of tribes which have forms of government that have not been embodied in written documents, or whose documents have not been formally approved by the Secretary or his representative. In those instances, the political relationship may not be defined so clearly. However, the historical terms of those specific relationships are sufficiently well understood by consistent patterns of inter-relationship between the tribe and the United States, as reflected by both Federal and tribal records, to identify the terms of the political relationship and to permit the principles of this policy to be applied in like manner.

As a party in this political relationship, the Secretary has the right to expect that the terms of the relationship are honored. He would be derelict in his duty as representative of the Federal Government in this relationship and negligent in his responsibility to the tribe if he had knowledge regarding clear violations of the terms of the relationship and did not advise the tribe of his concern and do what he could to bring about corrective action.

The application of this policy will occasionally require Superintendents and other line officials to make recommendations that may be opposed by tribal officials. Responsible actions taken by Bureau officials to implement this policy will receive my full support. I believe tribal leaders will understand that it is only reasonable for both parties to the political relationship to insist on compliance with its terms.

In implementing this policy, Bureau officials at all levels have key roles to fulfill. At the field level, it will be the responsibility of the Superintendent, in most instances, to identify tribal action which may constitute an extraordinary and deliberate breach of the terms of the tribal/Federal relationship. He must fully develop the factual information which will assist in the decision as to whether a breach has occurred. In so doing, discussion with tribal officials will reveal whether the action in question was deliberate and whether the tribal officials are prepared to stand by their action. He should also indicate whether there is a third party whose rights may have been affected, whether a tribal forum is available, and whether any action is on-going or anticipated by such third party.

The Superintendent shall then refer the matter of the apparent breach to the Area Office. The Area Director shall negotiate with the tribal officials in an effort to resolve the matter in controversy. If he is unsuccessful in his effort, he shall immediately refer the matter, including his comments and recommendations, and those of the Superintendent to the Central Office for any further action.

The Commissioner will make the determination whether an extraordinary and deliberate breach of the tribal constitution has occurred. He will evaluate whether the breach warrants a response on the part of the Department and the nature of that response, and develop the procedure to deal with it. If one of the techniques selected is the imposition of sanctions, the Commissioner will consider the following:

- a. Whether the breach stems from a different interpretation of ambiguous language in the constitution or is a willful disregard of clear language.
- b. What the impact of the sanction will be on the future well-being of tribal members.
- c. What the impact of the sanction will be on the Secretary's fiduciary obligation on Departmental programs.
- d. What the impact will be on future relations with the tribe or the particular tribal government or leaders in question.
- e. The impact on the policy of self-determination and recognition of tribal sovereignty.

- f. What impact the sanction, or failure to apply it, will have on relations with other tribes.
- g. What the impact will be on the Bureau, Department and Administration from the Congress, the media, general public and world opinion.
- h. The best interests of the United States.

Sanctions in order of increasing severity are:

- a. Refusal to recognize or approve a specific act of a tribal government or any consequence of it.
- b. Refusal to recognize any otherwise legal act of the tribal government until corrective action is taken.
- c. Withdrawal of recognition of an officer of the tribe as legitimately seated and whose actions the United States can recognize.
- d. Withdrawal of recognition of a governing body as legitimately seated and, therefore, one with whom the United States can do business.
- e. Cut-off of all Bureau funding with recommendation to other agencies that they take similar action and/or a refusal to deliver trust funds.
- f. Withdrawal of recognition of all officials. Such officials could be recognized, however, for the sole purpose of taking action to correct the breach. Once corrections are made, recognition to the proper officials could then be restored.

The Central Office will monitor the crisis and decide when and if sanctions will be withdrawn and normal working relations re-established.

This policy is intended as a means to ensure that the terms of the political relationship are honored by both parties. This policy acknowledges the existing tribal quasi-sovereign political status. But it acknowledges all the implications of such status and deals with them. This policy is consistent with that expressed by Congress in P.L. 93-638 to maintain the Federal Government's unique and continuing relationship with tribal governments.

J.C. L. Miller

Mr. LOVATO. Thank you, Mr. Chairman.

Senator MELCHER. You may proceed.

Mr. LOVATO. We have concerns with water rights. We have concerns with the position of Mr. Fredericks in terms of his opinion on what relationship tribal governments ought to have with individual members and what the role of the Federal Government or the Department of the Interior ought to be in that process.

We have trouble and concerns with his opinion and philosophy in terms of negotiation with State governments. These are legitimate concerns. They are not a matter of personal animosity. We are not questioning his credentials.

I think what we are saying here, Mr. Chairman, is that as far as 18 of the 19 Pueblo tribes are concerned, they have the feeling that they do not have confidence in Mr. Fredericks that they feel they ought to have in a person in that position.

This is our opinion. This is our position. I think, from that standpoint, that we at least ought to have an opportunity to express our concerns.

We can probably go point by point on other issues, sir, such as the Institute of American Indian Arts. The Bureau is no longer run by the Assistant Secretary of the Interior for Indian Affairs. The decisions are being made upstairs. I have proof of that.

As a result of my position regarding this particular nomination and other key Indian issues and the administration, we have had certain contract negotiations ceased. The Bureau has been instructed to stop dealing with us on these things.

What is going on? This, I think, is a concern that we would like to register with this committee.

Senator MELCHER. I am glad you are. Obviously, these hearings are the very forum in which to register those concerns.

I want to repeat to you, Del, and to all of the Pueblos what I said earlier this year in April in Santa Fe. I said then and I say it again today that the passage of the bill on which we held the hearing, concerning Indian arts, Indian culture, and Indian history, will not in any way preempt the Pueblos from the campus at Santa Fe.

Personally—and I have discussed this with Mr. Yates, the chairman of the House Appropriations Committee—I have discussed with him the possibility of having the institute at Southwest Indian Polytechnic Institute in Albuquerque.

I think everyone in the Southwest and West knows, perhaps everyone in the United States and maybe in the entire world, that Santa Fe is a very significant and important art center.

Nevertheless, Albuquerque is a growing arts center and will become more important as time goes by. To me, after reviewing the situation, I think the institute would probably be better located at SWIPI in Albuquerque. There is more room for the very needs they have. Santa Fe happens to suit the families of the Pueblos much better. I am sure that is the case. You have told me so and I have visited with a lot of families that echo exactly what you have told me and have told the committee at our hearing.

They feel more comfortable being closer to their children in Santa Fe than if they were removed to Albuquerque. That is what we are

discussing right now and you can rest assured that Senator Domenici and this committee is working very carefully on this matter.

We are not trying to kick the Pueblos out—

Mr. LOVATO. We like your suggestion, Mr. Chairman. I hope something fruitful will come out of your suggestion.

Senator MELCHER. Senator Schmidt is working on it too. Senator DeConcini is sympathetic.

Mr. LOVATO. May I just make one other point?

Senator MELCHER. Yes.

Mr. LOVATO. Mr. Chairman, I think an issue which Governor Lucero, Governor Tafoya, and I have been concerned about is this. I want to give special emphasis to this particular matter. It is the proposed policy statement that the Department has already come out with.

The policy statement deals with developing guidelines to supplement the Supreme Court case ruling in the *Martinez* case. We feel it basically abrogates tribal government entirely or, at least, the sanctions provide for abrogation, completely doing away with tribal governments. It is ridiculous in our opinion, but the wording is in there.

We oppose that policy statement. I do not know where else to begin but to let the Department know that that is exactly the type of statements that we do not want, do not need, and which should not even come out.

I think Governor Tafoya might want to make a comment on it since it involves his pueblo—

Senator MELCHER. I am sorry. I am going to have to interrupt right now for a recess. The five bells mean that I have about 5 minutes to get to the floor for a vote. We will hear your comments immediately following the recess.

[Recess taken.]

Senator MELCHER. The committee will come to order. We will proceed. Governor, you were going to make a statement. Please proceed.

STATEMENT OF PAUL TAFOYA, GOVERNOR, SANTA CLARA PUEBLO TRIBE

Mr. TAFOYA. Thank you, Mr. Chairman.

Mr. Del Lovato has made some references to the *Martinez v. Santa Clara Pueblo* case. I want to point out that we are very concerned about it.

I have spent a great deal of my time since I went to trial on this particular case. I would like to preserve a decision that was made by the Supreme Court.

What really worries and concerns me is the fact that was stated by Mr. Fredericks as to his feeling about the administration's present Indian policy. He made a statement that he is committed directly to that policy.

I think it is under the present administration that these changes are being made and that bothers me.

We talked about it not only within my own tribal council but also with the All Indian Pueblo Council. The concern is that we dislike the

idea of the present administration's saying that they will make a departmental policy guideline in the wake of the *Martinez v. Santa Clara Pueblo* Supreme Court ruling.

I hope, if Mr. Fredericks is confirmed into the position, that he will change his position because this means that we will be working and operating under a threat because of noncompliance, which is what I am anticipating will happen throughout Pueblo country.

I know that my pueblo in Santa Clara will definitely be opposed to any policy directive coming from the administration, for the reason that it concerns us not only in the area of the *Martinez* case but also in the area of other natural resource programs.

I do not know, Senator, if you understand that right adjacent to the Santa Clara Indian Reservation there is a geothermal resource development program going on at the present time. Again, we should have been consulted and, again, it is another one of the administration's policies to go out and start developing natural resources. I think all of this has to be addressed.

Another area that we are really concerned about is the statute of limitations. We only have a few months to do something with our trespass cases. At the present time we are not doing anything with them.

Here we have three good examples of what the present administration is doing to the Indian people in our part of the country—the *Martinez* case, the statute of limitations, and the geothermal demonstration program. If Tom Fredericks is going to take a position supporting the present administrative policy then we are opposed to his nomination.

All of this has a direct impact on my tribe. I believe, Senator, that this is all I want to say at the present time unless you have any questions.

Senator MELCHER. Thank you.

Mr. Ken Black, do you have a statement?

Mr. BLACK. Yes.

STATEMENT OF KENNETH E. BLACK, EXECUTIVE DIRECTOR, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Mr. BLACK. Thank you, Mr. Chairman.

First of all, I want to thank you and commend you and Senator Inouye for your efforts and endeavors to make the select committee a permanent one.

We also thank you for the opportunity to testify on the important matter of the appointment of a new Assistant Secretary of Indian Affairs. We would like to point out that tribal leadership was not consulted in this matter with regard to candidates for this position. However, we do have some recommendations that we would like to have the committee consider.

First and most obvious is the competence to handle the job. The Assistant Secretary must have the skills to manage this huge bureaucratic machine called the Bureau of Indian Affairs. Resources of the Bureau must be used to achieve their highest utility in dealing with the daily and ongoing problems and issues which confront the tribes and the Bureau of Indian Affairs. He must have the courage to make unpopular decisions that his superiors will not always like and he must

be able to argue his position with conviction, soundness, and reasonableness.

Second, but equally important, the Assistant Secretary must have no outside interests that will conflict with his duties. In discharging his responsibilities, the tribes must always come first. It has been suggested that not even an appearance of a conflict of interest should be present.

Third, and most important, is that the Assistant Secretary must be an advocate of tribal interests. We expect this as a matter of course when an opposing interest is a nontribal entity, such as a coal company.

However, there are fine lines to be drawn whenever the interest adverse to tribal interests is an allotted member of the tribe. We would remind all that without a strong tribe and tribal government, the allottee, in most cases, will float adrift in the large sea of commerce, law, and government. Moreover, the weakening of the tribe only diminishes the identity, the culture, and the heritage of the individual member.

If you find these qualities in a person, and in a pronounced manner, then the National Tribal Chairmen's Association would have no objection to his confirmation.

We will be happy to answer any questions, sir.

Senator MELCHER. Thank you all very much for your testimony. I understand the seriousness of the concerns that have been expressed both about consultation and about policy. We will attempt as a committee to be very active in those fields, particularly policy.

The consultation part, while I understand your feelings about it entirely, I do not know whether we can do very much about that, to be very honest with you. We can recommend but it is an executive action of almost the highest level by the President. It is his privilege to handle it the way he wants to.

You know our feelings about it. As a committee we feel that consultation is very important and we do not just mean giving it lip service. We mean actual, on the ground, down to earth consultation.

The other part, on policy, I view to be much more serious. I can assure you that this committee will do its utmost to be active in guiding those policy decisions. We will, I assure you, be in direct consultation with you and I do not put any quotes on that word "consultation." We want input from you and we want to be talking to you back and forth and getting your advice on these matters for policy. They are extremely important to Indians all over the country.

Thank you all very much.

We will call another group here—Earl Old Person, who has a plane to catch at 4:30. He is accompanied by Bob Gervais. Bob probably has the same plane to catch. We will call Caleb Shields, who is accompanied by Tom Whitford; DeWitt Dillon, and John Windy Boy.

First, let me go through this. The Blackfeet are represented by Earl Old Person and Bob Gervais. DeWitt Dillon is here for the Crow Tribe. John Windy Boy is here for the Chippewa Cree. Caleb Shields represents the Fort Peck Tribal Executive Board, and Tom Whitford is the executive director of the Montana Intertribal Policy Board. Everyone is from the great State of Montana.

Who is missing? Someone is missing. Where is John Windy Boy? Is he not here? Is anyone representing the Chippewa Cree? Where is Alan Parker?

Do you want to represent the Chippewa Cree, Alan?

Mr. PARKER. That would be a great honor, Mr. Chairman, but it has not been delegated to me. I believe that the statement of John Windy Boy is probably on record.

Senator MELCHER. Alright. Thank you, Alan.

Please proceed. I said you first, Earl. Bob, are you on the same airplane?

Mr. GERVAIS. Yes.

Senator MELCHER. DeWitt, Caleb, and Tom, are you all on the same airplane?

Mr. SHIELDS. Mine is at 6.

Senator MELCHER. You are not going all the way to Montana tonight then. You are just going part way.

We will hear from Earl and Bob first.

STATEMENT OF EARL OLD PERSON, CHIEF, BLACKFEET TRIBAL BUSINESS COUNCIL; ACCOMPANIED BY FLOYD BOB GERVAIS, MEMBER

Mr. OLD PERSON. Mr. Chairman, I am representing the Blackfeet Tribal Business Council as a member of the council and the chief of the tribe.

I am also testifying on their behalf and the action that they have taken. Mr. Bob Gervais has a resolution that he will read.

I believe the reason they are backing Mr. Fredericks is due to the fact that Mr. Fredericks, first, is an Indian, comes from a tribe, and knows the Indian people, and his professional background. He has had past experience in working with Indian affairs and knows Indian issues since he is a lawyer himself, a consultant, and is knowledgeable in water related issues, our natural resources, and of course, energy of the Indian country.

As you know, today energy has become very vital to Indian people and Indian reservations.

We feel that Mr. Fredericks has demonstrated his knowledge and his experience in this area, since he has worked with that Department in previous years.

Therefore, I think that Mr. Fredericks needs to be given an opportunity in order to demonstrate the kind of leadership that he will have with the Indian people in this very high job in Indian affairs.

At the same time I feel that Indian people will look to this individual, who may become the Assistant Secretary of Indian Affairs, as a man who can relay the message, a man who can be the voice of the Indian people in the issues and matters of their desire, and can express the things that they want brought to the highest and most key area of Indian affairs.

I certainly agree with people who have already stated that too many times the Indian people are left alone with their desires and the things that they want to be pursued and that things that they feel are most vital, as well as the things that will let them overcome the problems and frustrations that confront them.

With that, I feel that my council is looking for something different. As I have already said, Mr. Fredericks has not been given the job yet. He has not been given the opportunity. We hope that through his

leadership, should he get this nomination and become the Assistant Secretary for Indian Affairs, that he will begin yielding and begin demonstrating that he is going to work on behalf of the Indian people and begin to stress the issues that the Indian people want stressed for the betterment of not only this generation of Indians but for those people of the upcoming generation and those who will be here a lot longer than we will be here.

With that, I sincerely thank you for this opportunity of letting me talk on his behalf and represent the Blackfeet people.

I would now like to turn to Mr. Bob Gervais to read the resolution by the Blackfeet Tribal Business Council.

Senator MELCHER. Thank you, Earl.

Go right ahead, Bob.

Mr. GERVAIS. I am Bob Gervais of the Blackfeet Tribal Business Council.

This is resolution 141-80:

Whereas: The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Reservation, and

Whereas: The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interests, education and resources of the Indian people of the Blackfeet Indian Reservation, and

Whereas: The position of Assistant Secretary of Indian Affairs, Department of Interior, has been vacated due to the resignation of Forrest Gerard, and

Whereas: This position is a key position in Indian Affairs and requires a person with considerable experience in working with and in behalf of Indian Tribes and the general public, and

Whereas: Said position would also require one who has an excellent knowledge of Tribal and Federal Government, now

Therefore be it resolved: That the Blackfeet Tribal Business Council, acting for and in behalf of the Blackfeet Tribe of the Blackfeet Indian Reservation, does hereby fully support and endorse Tom Fredericks, as Assistant Secretary of the Interior for Indian Affairs.

Certification was made on June 27, 1980.

Senator MELCHER. Thank you both very much.

The committee is very appreciative of the statement and of the resolution.

Mr. OLD PERSON. I would like to have Mr. Shields and Mr. Tom Whitford speak at this time.

Senator MELCHER. Please proceed.

STATEMENT OF CALEB SHIELDS, MEMBER, FORT PECK TRIBAL EXECUTIVE BOARD

Mr. SHIELDS. Thank you, Mr. Chairman.

My name is Caleb Shields and I am a member of the Tribal Executive Board of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation in Montana. The Assiniboine and Sioux Tribes are pleased to announce their strong support for the nomination of Thomas W. Fredericks to be Assistant Secretary of the Interior for Indian Affairs.

Mr. Fredericks is exceptionally qualified to serve in this position. First, he is himself a native American, a member of the Three Affiliated Tribes of the Fort Berthold Reservation in North Dakota.

Second, Tom has a distinguished career in public service both on behalf of Indian tribes and within the Department of the Interior.

Prior to attending law school at the University of Colorado in the late 1960's, Tom served ably as executive director of the Standing Rock Sioux Tribe of North and South Dakota.

After his graduation from law school in 1972, Mr. Fredericks joined the Native American Rights Fund, public interest law firm in Boulder, Colo., dedicated to the protection and advancement of Indian rights. Mr. Fredericks rose rapidly to become the director of the Native American Rights Fund and in 1977 was appointed Associate Solicitor for Indian Affairs with the Interior Department. He served in this position with distinction until late 1979.

In all of his jobs—with the Standing Rock Sioux Tribe, in private practice with the Native American Rights Fund, and with the Federal Government—Mr. Fredericks has shown great sensitivity to and support for the advancement of Indian rights. He is an excellent choice for Assistant Secretary of the Interior and the Tribal Executive Board of the Fort Peck Indian Reservation, Mont., wholeheartedly supports this nomination.

With that, Mr. Chairman, I would like the attachments to my statement to be submitted for the record and I would also like, for the record to speak on an issue concerning Mr. Fredericks.

The Fort Peck Tribes, as you know, give their wholehearted support to the National Congress of American Indians, yet, at the same time, the resolution that was presented in Reno and was supported by the majority of the tribes opposing the appointment of Mr. Fredericks—As a tribal delegate, I have to oppose that resolution.

Our tribe had previously, in January, given a resolution of support for Mr. Fredericks. We do agree with the principle concerning the lack of consultation by this administration.

There is a lot to be desired in consultation and the principle is one that the Fort Peck tribes agreed with, but we took issue with the opposition to the appointment of Tom Fredericks as Assistant Secretary.

I believe what we are dealing with, Mr. Chairman, is not the lack of consultation. I believe what we are dealing with is fighting the system. It is not just consultation. I think the system is what promotes militancy.

Until that is addressed we will never get a clear definition of what consultation is either from the administration or maybe even from the tribes themselves. I have a feeling that what is happening today is that we may have two different definitions of consultation.

Mr. Chairman, I would like to conclude my reiterating our support of Tom Fredericks for Assistant Secretary of the Interior.

I would now like to turn this over to Mr. Tom Whitford who is the executive director of the Montana Intertribal Policy Board.

Senator MELCHER. Without objection, the attachments to your statement will be included in the hearing record at this point.

[The attachments follow:]

RESOLUTION 2-12-30-1

TRIBAL GOVERNMENT

WHEREAS, the Fort Peck Tribal Executive Board is the duly elected body representing the Assiniboine and Sioux Tribes of the Fort Peck Reservation and is empowered to act in behalf of the Tribes. All actions shall be subject to provisions set forth in the 1960 Constitution and By-Laws and Public Law 863-400, and

WHEREAS, with the pending vacancy of the Assistant Secretary of the Interior position, due to the resignation of Mr. Forrest Curd as to be effective on January 19, 1980, the Fort Peck Tribes are greatly concerned as to the filling of this position, and

WHEREAS, this position of high trust responsibility must be filled by a person who personally understands and supports both the legal and moral responsibility that goes with the position, and

WHEREAS, the Fort Peck Tribes feels that Mr. Thomas Fredericks should be strongly considered for the Assistant Secretary of the Interior position with the Bureau of Indian Affairs, Now

THEREFORE, BE IT RESOLVED that the Fort Peck Tribes does hereby endorse Mr. Thomas Fredericks to be the next Assistant Secretary of the Interior of the Bureau of Indian Affairs.

CERTIFICATION

I, the undersigned Secretary Accountant of the Tribal Executive Board of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, hereby certify that the Tribal Executive Board is composed of 12 voting members of whom 12 constituting a quorum were present at a Special meeting duly called and convened this 14th day of January, 1980, that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 11.

William S. Hurts
William S. Hurts, Secretary Accountant

APPROVED:

Joseph R. Thompson
Joseph R. Thompson, Vice Chairman
Fort Peck Tribal Executive Board

Superintendent, Fort Peck Agency

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719400 5 0410, CHAIRMAN JONAS INTER-TRIBAL
POLICY BOARD
75 55 NORTH 25 ST
WILLIAM 11 50101

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

4062452229 TONI BILLINGS MT 95 01-11 1231P EST
PMS NONPARABLE CECIL D ANDRUS, SECRETARY OF INTERIOR, 2LT
WASHINGTON DC

DEAR MR SECRETARY,
THE MONTANA INTER-TRIBAL POLICY BOARD, REPRESENTATIVE OF THE SEVEN
RESERVATIONS IN MONTANA AND THE LITTLE SHELL TRIBE, MORE COMMONLY
KNOWN AS THE LANDLESS INDIAN OF MONTANA, WOULD LIKE TO STRONGLY
RECOMMEND THAT YOU APPOINT THOMAS W FREDERICKS TO THE SOON TO BE
VACANT POSITION OF ASSISTANT SECRETARY FOR INDIAN AFFAIRS.

MR. FREDERICKS, FORMERLY SOLICITOR FOR INDIAN AFFAIRS, HAS BEEN CLOSE TO CURRENT INDIAN ISSUES AND IS HIGHLY QUALIFIED TO CARRY ON THE TASKS OF FOREST BOARD. HIS VAST KNOWLEDGE AS IT RELATES TO INDIAN CONCERNS IN GENERAL WOULD BENEFIT ALL OF US.

THOMAS F PABLO, CHAIRMAN MONTANA INTER-TRIBAL POLICY BOARD

1234 EST

PD INCOMP PDN

Senator MELCHER. Please proceed, Tom.

**STATEMENT OF TOM WHITFORD, EXECUTIVE DIRECTOR, MONTANA
INTERTRIBAL POLICY BOARD**

Mr. WHITFORD. Thank you, Mr. Chairman. My name is Thomas C. Whitford. I am the executive director for the Montana Intertribal Policy Board.

Thank you for allowing the board the opportunity to present its views and position regarding the Assistant Secretary of the Interior for Indian Affairs.

The Montana Intertribal Policy Board is an organization whose membership includes representatives from the seven Montana Indian reservations and the Little Shell Tribe.

The Montana Intertribal Council supports the nomination of Thomas W. Fredericks as Assistant Secretary of the Interior for Indian Affairs. We do this because we are convinced that Mr. Fredericks possesses those qualifications necessary to effectively and fairly carry out the responsibilities mandated by an office of such magnitude and complexity.

We have known and worked with Mr. Fredericks for several years—recently while he was Associate Solicitor for Indian Affairs and some years back when he was affiliated with the Native American Rights Fund.

In all instances we have found him to be well qualified, up to date on the issues, and respected by his professional peers. He has shown sensitivity to our problems and has eagerly addressed them, boldly and competently.

We need a man who is up with the times, aware of our unique and complicated problems, and determined to find answers and solutions to them. We also need a man who can work for us and with us, and one we can trust within a Federal agency whose purpose, interest, intent, and role we sometimes question.

It is our opinion that Mr. Fredericks has all of these qualities, making him a natural candidate for a position new to Interior and one of such extreme importance to this Nation's Indian population.

Senator Melcher, we wholeheartedly support Thomas W. Fredericks for the position of Assistant Secretary of the Interior. Thank you.

Senator MELCHER. Thank you, Tom. Without objection, the material you provided with your statement will be included in the hearing record at this point.

[The material follows:]



Montana Inter-Tribal Policy Board

OFFICERS

President
Vice President
Secretary

711 Central Ave. • Billings, MT 59102 • (406) 345-2228

Sent by telegram from Senator Melcher's office.

June 12, 1980

LETTER CARRIER
New York City
New York CityHonorable John Melcher
United States Senate
Washington, D.C. 20510LETTER CARRIER
New York City
New York City

Dear Senator Melcher:

LETTER CARRIER
New York City
New York City

I was informed yesterday that Secretary Andrus forwarded to the Whitehouse a recommendation that Thomas W. Pedricks be appointed to the Assistant Secretary for Indian Affairs post.

LETTER CARRIER

The Montana Inter-Tribal Policy Board, by mailgram dated 1/11/80, urged Secretary Andrus to nominate Mr. Pedricks. The Board continues to feel strongly about this nomination and asks that you support Mr. Pedricks in what ever manner appropriate. The Board also asks that you encourage expeditious congressional hearings, since the post has been vacant for such a long time and is of primary importance to tribes throughout the United States.

LETTER CARRIER
New York City
New York City
LETTER CARRIER
New York City
New York CityLETTER CARRIER
New York City
New York City

Sincerely,

William Youpee
Chairman
Montana Inter-Tribal Policy Board

WY/cg

MITPB MEETING

PAGE 6

January 29, 1980

Discussion on the Missouri River Basin Committee.
Dan Boggs nomates Bob Gervais.

Motion made by Bill Youpee to appoint Tom Pablo to the MRBC. Seconded by Allen Rowland. Motion carried.

Forest Gerard asked the tribes to support Tom Pedricks, for our consultant on Water issues, unless he is appointed as the Assistant Secretary of Indian Affairs.

Discussion on appointing Tom Pedricks as Assistant Secretary and if he don't get the Assistant Secretary job he will still be the consultant on Water issues.

Motion made by Bill Youpee that if Tom Pedricks gets the Assistant Secretary's job he will lose our contract, and if he don't get the job he will still be our consultant. Seconded by Allen Rowland. Motion carried.

ANA neptiosm - We didn't get any response except from the Crow's on the ANA neptiosm for Rocky Boy's.

Board goes into executive session.

Discussion on EPA, air quality on the reservations.

Tom Whitford - We lost our tax exempt status. Discussion on the tax exempt status.

Articles of Incorporation - Motion made by Dan Boggs for Tom Pablo, Chairmen of MITPB to sign the Articles of Incorporation. Seconded by John McClure. Motion carried.

MEETING ADJOURNED

ATTEST:

Don Bishop
Don Bishop

Secretary-Treasurer

Montana Inter-Tribal Policy Board

Mailgram

RECEIVED
JAN 14 1980
RECEIVEDALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 08/11/00 BY 60322ZCZCPOLICY BOARD, CHAIRMAN MONTANA INTER-TRIBAL
POLICY BOARD
JAN 14 1980
JAN 14 1980

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

408452229Z JAN 14 1980 MT 05 01-11 1231P EST
FM MONTANA POLICE DEPARTMENT, SECRETARY OF INTERIOR, DLT
WASHINGTON DC

DEAR MR SECRETARY,
THE MONTANA INTER-TRIBAL POLICY BOARD, REPRESENTATIVE OF THE SEVEN
RESERVATIONS IN MONTANA AND THE LITTLE SHELLE TRIBE, WOULD LIKE TO
KNOW AS THE LANDS INDIAN OF MONTANA, WOULD LIKE TO KNOW
THAT THAT YOU APPROPRIATE INCREASE IN FREEDOMS TO THE BOARD TO
VACATED POSITION OF ASSISTANT SECRETARY FOR INDIAN AFFAIRS.

MR FREEDOM, FORMERLY SOLICITOR FOR INDIAN AFFAIRS, HAS BEEN
IN CURRENT INDIAN ISSUES AND IS HIGHLY QUALIFIED TO CARRY ON THE
TASKS OF THE BOARD. HIS VAST KNOWLEDGE AS IT RELATES TO INDIAN
CONCERNS IN GENERAL WOULD BENEFIT ALL OF US.

THOMAS F PASLO, CHAIRMAN MONTANA INTER-TRIBAL POLICY BOARD

1234 EST

MONTANA MIM

Senator MELCHER. Our next witness is Mr. DeWitt Dillon representing the Crow Tribe.

**STATEMENT OF DEWITT DILLON, BUSINESS MANAGER,
CROW TRIBE**

Mr. DILLON. Thank you, Mr. Chairman.

I consider it a privilege, Mr. Chairman, to be able to be here for and on behalf of the Crow Tribe, and particularly on behalf of the tribal chairman, Mr. Forest Horn. Other than being his representative, I am here as an active member of the Crow Tribal Council. I am currently the business manager of the Crow Tribe.

At the outset, Mr. Chairman, I would like to commend you and this committee for the expeditious manner in which you have held these hearings on Mr. Fredericks' nomination. When Mr. Fredericks' name first came up, the tribal elder system in the Crow Tribe was very, very pleased.

Tom Fredericks, in the opinion of the tribal leadership of not just the Crow, but in Montana, is the epitome of what elders have been for years; namely, he is astute, educated, and astute in the field of Indian affairs, particularly those critical sensitive issues that are at hand and that will grossly affect the future of Indian tribes.

I would like to address those categorically as his being astute in land matters, water, and mineral resources and, above all, Mr. Chairman, in the human resource. That is how he is viewed by the tribal leadership.

I would like to say at this time, Mr. Chairman, that I do not have the testimonial of endorsement with me but it is in the mail to your committee.

Senator MELCHER. I want to state for everybody right now that we will hold this hearing record open for 2 weeks. That will allow plenty of time for written testimony to be submitted.

Mr. DILLON. Fine, thank you.

Mr. Chairman, as I said before, I am just here to express the mood and sentiment of the tribal chairman, the tribal council, and the Crow Tribe. I will conclude by saying that we have watched Tom Fredericks perform in the past. We know that he is very capable.

I, personally, would like to commend—without getting into attitudes on consultation—the administration and Secretary Andrus' office for the appointment of Tom Fredericks to this position.

Thank you, Mr. Chairman.

Senator MELCHER. I want to thank all of you very much, and Earl Old Person too, who had to leave. I think it is very fine that the Montana tribes take this much interest in this appointment.

It is an extremely important appointment. As we know, this is only the second time that we have had an Assistant Secretary for Indian Affairs and I think it bodes well that the Montana tribes feel so seriously about this matter that we have this fine representation of the tribes here for the confirmation hearing. Thank you very much.

We will now hear from Robert E. Lewis, governor of the Pueblo of Zuni of Zuni, N. Mex.; Llewellyn Barrackman, chairman of the Fort Mojave Tribe of Needles, Calif.; Frank Lawrence, chairman of the Standing Rock Sioux Tribal Council of Fort Yates, N. Dak.; Rex

Evans, executive director of the United South and Eastern Tribes of Nashville, Tenn.; and Delbert Frank of the Warm Springs Tribal Council of Warm Springs, Oreg.

Mr. LAWRENCE. Mr. Chairman, I would like your permission to go first, since I have a plane to catch.

Senator MELCHER. I am at a loss here.

Mr. LAWRENCE. I am Mr. Lawrence, Chairman of the Standing Rock Sioux.

Senator MELCHER. You may be first, Frank.

I want to be sure—we have somebody missing here. Is Delbert Frank here? Delbert Frank is not here.

He is on the witness list and if he has testimony later, of course, it will be made part of the record.

We have Robert Lewis, Llewellyn Barrackman, and Rex Evans. Please proceed, Frank.

STATEMENT OF FRANK LAWRENCE, CHAIRMAN, STANDING ROCK SIOUX TRIBAL COUNCIL

Mr. LAWRENCE. Mr. Chairman, my name is Frank Lawrence and I am chairman of the Standing Rock Sioux Tribal Council. The Standing Rock Sioux tribe strongly supports the nomination of Thomas W. Fredericks to be Assistant Secretary of the Interior for Indian Affairs.

Given the terrible conflicts of interest within the Interior Department and throughout the Federal Government between those agencies which should protect invaluable Indian rights to natural resources, land, water, minerals, game, fishing, and energy, and those who would take them away for their own use, it is essential that the Assistant Secretary be a man of integrity, a firm advocate of Indian rights. We believe Tom Fredericks is such a man.

Mr. Fredericks is himself a Native American, a member of the Three Affiliated Tribes of the Fort Berthold Reservation in North Dakota. We, at Standing Rock, know his accomplishments first hand. In the late 1960's, Tom served with great ability as executive director of our tribe, living on our reservation. We know him well and admire his dedication to Indian rights.

I have served for many years as executive director of the United Sioux Tribes. In that capacity I have dealt extensively with Tom both when he was director of the Native American Rights Fund in Boulder and as Associate Solicitor for Indian Affairs with the Interior Department. Tom served in both positions with distinction.

In all of his jobs—with the Standing Rock Sioux Tribe, in private practice, with the Native American Rights Fund, and with the Federal Government—Mr. Fredericks has shown support for the advancement of Indian rights.

Tom is an excellent choice for Assistant Secretary of the Interior and the Standing Rock Sioux Tribe wholeheartedly supports his nomination.

That is the end of my written statement. I would like to make some additional comments. As Caleb Shields mentioned, we were one of the tribes that opposed the NCAI opposition of the nomination of Mr. Fredericks. I believe there would have been more tribes opposing the opposition from our area if they had been at NCAI. This was not a

general conference. Therefore, many of the tribes were unable to make it.

We feel that with Tom as the Assistant Secretary of the Interior for Indian Affairs we can move forward because of Tom's ability to articulate the regulations and his ability to handle interpretations.

Tom has served the great Sioux Nation for several years in providing the people with up-to-date information. Tom has done this on his own. He did not receive any compensation.

Tom has been an advocate for Indian people and has always been available to any tribe to assist them in interpreting. Many tribes have a lot of legal issues that have to be handled and Tom is always there with advice.

I think Tom's ability will prove that he is capable of handling the position. The tribe strongly supports him. He has done our tribe a lot of good by being able to work with the tribe. I think, through his efforts the tribe is in a fairly good position right now.

Thank you.

Senator MELCHER. Thank you very much, Frank. That is excellent testimony.

Do I understand that you need to be excused?

Mr. LAWRENCE. Yes.

Senator MELCHER. Thank you very much for coming here. We very much appreciate it.

I have no particular order of testimony which you must follow. Do you want Llewellyn Barrackman first?

Mr. BARRACKMAN. Yes.

Senator MELCHER. Please proceed, Llewellyn. Mr. Barrackman is from the Mojave tribe at Needles, Calif.

STATEMENT OF LLEWELLYN BARRACKMAN, CHAIRMAN, FORT MOJAVE TRIBE

Mr. BARRACKMAN. Mr. Chairman and members of the committee, my name is Llewellyn Barrackman. I am the chairman of the Fort Mojave Tribal Council.

It gives me a great deal of pleasure to be here before you today to testify on behalf of the nomination of Mr. Thomas W. Fredericks for the position of Assistant Secretary of the Interior for Indian Affairs.

The Fort Mojave Indian Tribe is located in three States: Arizona, California, and Nevada. Despite our relatively small size, we are faced with some of the most complex issues confronting Indian tribes in the United States. Some of these issues are water rights jurisdiction, land title and boundary questions, environmental problems, social concerns, resource development both human and natural, and many others.

These problems have had an especially hard impact upon the Indian reservations during these recessionary times. It is therefore imperative that we all strive to recruit the most qualified person to lead us to confront the challenges of the 1980's. We believe that we are gathered here in this Senate Chamber to act on the appointment of such a person.

We have known Mr. Fredericks since his days as Native American Rights Fund staff attorney, then as Associate Solicitor for Indian

Affairs, and recently as our legal counsel in *Arizona v. California*. We are confident that his background and legal experience have given him the insight and ability to adequately deal with Indian affairs.

We believe he is fully qualified to exercise the office of Assistant Secretary of Indian Affairs. We are confident too that Mr. Fredericks will provide the strong leadership necessary to fully implement the statutory Indian policy of self-determination as set forth under Public Law 93-638.

We are certain that he will also play a key role in managing within the Bureau of Indian Affairs and in attracting qualified persons to fill important positions in that agency.

During our association with Mr. Fredericks in the past we have found him to be a man of impeccable integrity, high moral character, and great intellect. Due to the drastic need for dynamic leadership within the Bureau of Indian Affairs we urge that you confirm Mr. Fredericks' nomination as soon as possible.

Mr. Chairman and members of the committee, I wish to thank you for the time allotted to me and the opportunity to speak on behalf of the Fort Mojave Indian Tribe in our support of Mr. Thomas W. Fredericks for the position of Assistant Secretary of the Interior.

Senator MELCHER. Thank you very much, Llewellyn.
Rex?

STATEMENT OF REX J. EVANS, EXECUTIVE DIRECTOR, UNITED SOUTH AND EASTERN TRIBES, INC.

Mr. EVANS. Mr. Chairman, my name is Rex Evans. I am the executive director of the United South and Eastern Tribes, or USET. USET is an intertribal council whose membership consists of 11 federally recognized tribes from 7 Eastern States stretching from Maine to Florida.

The eastern area presents numerous trust and program service problems for the Bureau as it is the largest geographic area with which they must deal and has the greatest potential for service population growth.

Last February the elected leadership of USET, after consideration of the qualifications and records of the candidates, voiced their support to the administration for the appointment of Mr. Thomas Fredericks as Assistant Secretary for Indian Affairs. I am here today to reiterate their support.

The Bureau of Indian Affairs is a vast and complex organization, one which you and your colleagues in Congress have determined needs improvement in order to be more responsive, efficient, and effective in its service provision and trust responsibility. With the establishment of the position of Assistant Secretary for Indian Affairs to strengthen the policymaking and improve the Bureau's management capability, a positive step toward this progress has been made. It is important to the entire process that you select a person with the willingness and ability to take on the task you have set out for him.

We are entering a new decade and fast approaching a new century. Whatever changes are made in the operation of the Bureau will have far reaching effects on the quality of life of Indian people for years to come.

The needs of the eastern tribes have historically had a low priority in development, service provision, and resource allocation through the Bureau. As we enter the new decade it is necessary to have an Assistant Secretary who is aware of all needs in Indian country including those in the East.

Mr. Fredericks has demonstrated the interest, initiative, and ability needed to handle the needs of the eastern tribes. He has shown that he is capable of setting the tone for the redevelopment and refinement of the Bureau's operations to meet the challenges of the 1980's. We urge the Senate select committee to

We urge the Senate select committee to appoint Mr. Fredericks as Assistant Secretary of Indian Affairs and to press for a speedy confirmation in the Senate.

Thank you for allowing the eastern tribes an opportunity to show their interest and support for Mr. Thomas Fredericks' appointment. Senator MULCHER. Thank you, Ben. With friends like this, I don't

Senator MELCHER. Thank you, Rex. Without objection, the attachments you submitted with your statement will be included in the record at this point.

[The attachments follow:]

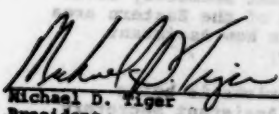
**RESOLUTION OF SUPPORT FOR THE
SELECTION AND APPOINTMENT OF THOMAS FREDERICKS OR
ASSISTANT SECRETARY FOR INDIAN AFFAIRS**

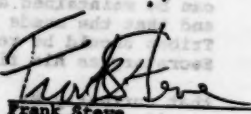
RESOLUTION NO. 80-1

- WHEREAS,** the United South and Eastern Tribes is on Inter-Tribal Council which, represents ten federally recognized American Indian Tribes in the Eastern United States, and
- WHEREAS,** at present the position of Assistant Secretary for Indian Affairs, Department of the Interior is vacant, and
- WHEREAS,** in recent months the issues of equitable base funding for the Eastern Area BIA and the implementation of the Eastern Area Management Improvement Program have been brought to the attention of and discussed with the previous Assistant Secretary for Indian Affairs, and
- WHEREAS,** the Eastern Area BIA has one of the greatest potentials for percentage growth of service areas in the United States and that the Base funding has been historically low for its growth, and
- WHEREAS,** it is of utmost importance to the Eastern Area Tribes that the aforementioned issues be addressed at the Assistant Secretary level; and
- NOW THEREFORE** BE IT RESOLVED, that the vacant position be filled as soon as possible, so that a continuing dialogue can be maintained at the Assistant Secretary level and that the needs and requests of the Eastern area Tribes should be reviewed by the New Assistant Secretary as his first priority;
- that currently Mr. Thomas Fredericks is being considered for the position of Assistant Secretary for Indian Affairs;
- NOW THEREFORE** BE IT FURTHER RESOLVED, that the United South And Eastern Tribes support the appointment of Mr. Thomas Fredericks as Assistant Secretary for Indian Affairs.

CERTIFICATION

This resolution was adopted at a joint meeting of the Executive Committee and the Administrative Operations Committee of the Board of Directors of the United South and Eastern Tribes, February 29, 1980.


 Michael D. Tiger
 President
 United South and Eastern Tribes, Inc.


 Frank Steve
 Treasurer
 United South and Eastern Tribes, Inc.

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645



Mailgram



4-84627781780002 06/26/80 ICB IPHNBZ CBP NASH
1 6153618700 MGN TDBN NASHVILLE TN 06-26 0134P EST

UNITED SOUTH AND EASTERN TRIBES INC PM
1101 KERRIT DR SUITE 800
NASHVILLE TN 37217

NET JUN 27 1980

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

6153618700 MGN TDBN NASHVILLE TN 75 06-26 0134P EST

ZIP
SENATOR JOHN MELCHER, SENATE SELECT COMMITTEE
DIRKSEN SENATE OFFICE BLDG ROOM 6313
WASHINGTON DC 20510
DEAR SENATOR MELCHER

THE MEMBERSHIP OF UNITED SOUTH AND EASTERN TRIBES HAS GONE ON RECORD
IN THE PAST SUPPORTING MR THOMAS FREDERICKS APPOINTMENT AS ASSISTANT
SECRETARY FOR INDIAN AFFAIRS

WE REAFFIRM OUR SUPPORT FOR MR FREDERICKS AS WE FEEL HE HAS THE
QUALITIES AND CAPABILITIES TO PROVIDE THE EFFECTIVE LEADERSHIP FOR
INDIAN PEOPLE IN THE 80'S
MICHAEL D TYGER PRESIDENT

13133 EST

MGNCHMP MGN

Senator MELCHER. Next is Robert Lewis of the Pueblo of Zuni.

STATEMENT OF ROBERT E. LEWIS, GOVERNOR, PUEBLO OF ZUNI

Mr. LEWIS. Mr. Chairman and members of the committee, I am Robert E. Lewis, governor of the Pueblo of Zuni, the largest of the pueblos in New Mexico, and on behalf of the Zuni Tribal Council I express appreciation to the committee for the opportunity to present testimony today in behalf of Thomas Fredericks to fill the position of Assistant Secretary of the Interior for Indian Affairs vacated by the resignation of Forrest Gerard quite some time ago.

The almost too sudden action of resignation by the former Secretary for Indian Affairs created a void which the Zuni Tribal Council felt should be remedied as soon as possible due to the frustrations tribes have experienced in the past because of two authoritative positions not being filled in a timely manner.

On January 13, 1980, the Zuni Tribal Council unanimously decided to send a telegram of endorsement for Thomas Fredericks to Secretary of the Interior Cecil Andrus indicating our faith and trust in Mr. Fredericks' capabilities to fill the vacated position.

On January 25, 1980, at a regular monthly meeting of the All Indian Pueblo Council held at the Pueblo of Santo Domingo, we let our action be known to the other Pueblo Tribes, indicating to them that the sooner we had the Assistant Secretary for Indian Affairs position filled by an experienced, qualified individual such as Thomas Fredericks, who did not need to be taught from the beginning the intricacies of the position, the sooner we would have our Albuquerque Area Director back to work with us which is also very important.

On February 26, 1980, at the office of the Under Secretary in a meeting here in Washington, which Secretary Andrus had arranged for several tribes and Indian tribal organizations, we again reiterated our endorsement of Thomas Fredericks, and we still do, now.

In taking the stance the Zuni Tribal Council has on this matter, or any other matter, we must at times, for the welfare of our own tribal people, decide as tribal governing bodies having sovereign power to do what is best, act individually. Our action in no way is meant to sever our working relationship with other tribes and should our assistance be requested we would respond.

We feel that Thomas Fredericks, who was born and raised on the Fort Berthold Reservation in North Dakota, studied law in that State as well as in the State of Colorado, and has passed the bar there, is especially aware of the trust responsibilities that the Federal Government has for Indian tribes and is also aware of the treaty rights of those tribes who have treaties. He is an advocate of tribal positions for proper conservation management of their resources.

His experiences in assisting tribes as a lawyer and consultant cover a very broad area, and especially having served in the position of Associate Solicitor as well as the experiences he gained in working and being involved with many resources matters of tribes as director of the Native American Rights Fund.

These are very crucial times to the Nation and world because of land and resources and because Indian tribes have resources that are being eyed by various interests throughout the Nation, we need an

advocate that will be very realistic on Indian issues, working things out with the ongoing society, and who will not sell out Indian interests. We have had to compromise so many times in the past and lost.

Therefore, because of these situations and concerns, we feel that Thomas Fredericks is the man we want in this important office. Even so, if things were not working out right we would be the first ones to indicate it and would yet offer any assistance to him to make things work out better.

Thank you.

Senator MELCHER. Thank you very much, Robert.

I want to thank all of you for your testimony. It was very forthright and very much to the point. The committee very much appreciates it.

That completes our witness list today. The hearing record will remain open until July 15, and all written statements pertaining to the nomination of Thomas Fredericks will be made a part of the record.

The meeting is adjourned.

[Whereupon, at 4:05 p.m., the hearing was adjourned.]

July 12, 1968
HHS-201-14-700

Secretary, HHS
1015 North Capitol Building
Washington, D. C. 20540

Dear Secretary:

The Senate will return to discuss approval of the nomination of Mr. Thomas Fredericks to the post of Assistant Secretary of Indian Affairs.

Mr. Fredericks has qualified for the position of Assistant Secretary of Indian Affairs and the Department of the Interior. He has been a member of the American Indian Movement and the National Indian Youth Council. He has been a member of the American Indian Movement and the National Indian Youth Council. He has been a member of the American Indian Movement and the National Indian Youth Council.

Sincerely,

Robert M. Melcher

Robert M. Melcher
Senator, Montana
Washington, D. C.

cc: HHS

cc: HHS-201-14-700

Correspondence Received Subsequent to the Hearing in
Opposition to the Appointment



PUEBLO of ISLETA

P.O. Box 317
Isleta, New Mexico 87031

Telephone
(505) 569-3311
(505) 569-6133

July 10, 1980

REC'D JUL 14 1980

Senator John Melcher
6313 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator:

"The Pueblo of Isleta is strongly opposed to the confirmation of Mr. Tom Fredricks as the next Assistant Secretary of Interior for Indian Affairs.

Mr. Fredricks has testified that he is committed to carry out the policies of the Administration and the Department of Interior. Some of these policies are adverse to tribal governments and are designed to circumvent and abrogate treaty rights and the very essence of tribal governments. We have no confidence in his ability to advocate the best interest of tribal governments, and we question his judgement on vital Indian issues."

Sincerely,

PUEBLO OF ISLETA

Alvino Lucero 1/a
Alvino Lucero
Governor

AL/1a

cc: S-Senators

D P MARTINEZ
 RT 5 BOX 315A
 SANTA FE NM 87501



Mailgram



1-0381968193 07/11/80 JCS SPNNTZ CSP MSHA
 5050824669 MGN YONT SANTA FE NM 110 07-11 11204 NDT

REC'D JUL 14 1980

SENATOR JOHN MELCHER
 6313 DIRksen SENATE OFFICE BLDG
 WASHINGTON DC 20510

"THE PUEBLO OF SAN ILDEFONSO IS STRONGLY OPPOSED TO THE CONFIRMATION OF MR TOM FREDRICKS AS THE NEXT ASSISTANT SECRETARY OF INTERIOR FOR INDIAN AFFAIRS.

MR FREDRICKS HAS TESTIFIED THAT HE IS COMMITTED TO CARRY OUT THE POLICIES OF THE ADMINISTRATION AND THE DEPARTMENT OF INTERIOR, SOME OF THESE POLICIES ARE ADVERSE TO TRIBAL GOVERNMENTS AND THEY ARE DESIGNED TO CIRCUMVENT AND ABROGATE TREATY RIGHTS AND THE VERY ESSENCE OF TRIBAL GOVERNMENTS. WE HAVE NO CONFIDENCE IN HIS ABILITY TO ADVOCATE THE BEST INTEREST OF TRIBAL GOVERNMENTS, AND WE QUESTION HIS JUDGEMENT OF VITAL INDIAN ISSUES."

DENNIS P MARTINEZ

13105 EST

MGNCOMP MGN

0000 11 JUL 0800

MAILING UNIT
 0100 11 JUL 0800

0100 11 JUL 0800

TO: SENATOR JOHN MELCHER
 FROM: D P MARTINEZ
 SUBJECT: CONFIRMATION OF MR TOM FREDRICKS AS THE NEXT ASSISTANT SECRETARY OF INTERIOR FOR INDIAN AFFAIRS
 RE: THE PUEBLO OF SAN ILDEFONSO IS STRONGLY OPPOSED TO THE CONFIRMATION OF MR TOM FREDRICKS AS THE NEXT ASSISTANT SECRETARY OF INTERIOR FOR INDIAN AFFAIRS. MR FREDRICKS HAS TESTIFIED THAT HE IS COMMITTED TO CARRY OUT THE POLICIES OF THE ADMINISTRATION AND THE DEPARTMENT OF INTERIOR, SOME OF THESE POLICIES ARE ADVERSE TO TRIBAL GOVERNMENTS AND THEY ARE DESIGNED TO CIRCUMVENT AND ABROGATE TREATY RIGHTS AND THE VERY ESSENCE OF TRIBAL GOVERNMENTS. WE HAVE NO CONFIDENCE IN HIS ABILITY TO ADVOCATE THE BEST INTEREST OF TRIBAL GOVERNMENTS, AND WE QUESTION HIS JUDGEMENT OF VITAL INDIAN ISSUES."

0100 11 JUL 0800

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0100 11 JUL 0800

4401 LEBERT N PINA GOVERNOR PUEBLO
 NY 1 BOX 1170N
 SANTE PE NM 87501



Mailgram 

1-6072548107 07/15/80 TCB IPHNTZ CSP WSHA
 5054557752 NCM TONT SANTE PE NM 112 07-15 0228P EST

RET'D JUL 18 1980

SENATOR JOHN MELCHER
 6313 DICKSON SENATE OFFICE BLDG
 WASHINGTON DC 20510

THE PUEBLO OF NAWBE IS STRONGLY OPPOSED TO THE CONFIRMATION OF MR TOM
 FREDERICKS AS THE NEXT ASSISTANT SECRETARY OF THE INTERIOR FOR INDIAN
 AFFAIRS. MR FREDERICKS HAS TESTIFIED THAT HE IS COMMITTED TO CARRY
 OUT POLICIES OF THE ADMINISTRATION AND OF THE INTERIOR. SOME OF THESE
 POLICIES ARE ADVERSE TO TRIBAL GOVERNMENTS AND ARE DESIGNED TO
 CIRCUMVENT AND ABROGATE TREATY RIGHTS AND THE VERY ESSENCE OF TRIBAL
 GOVERNMENTS. WE HAVE NO CONFIDENCE IN HIS ABILITY TO ADVOCATE THE
 BEST INTERESTS OF TRIBAL GOVERNMENTS AND WE QUESTION HIS JUDGMENT ON
 VITAL INDIAN ISSUES.

SINCERELY

GILBERT N PINA GOVERNOR
 PUEBLO OF NAWBE

14:30 EST

NCMCHPP NCM

ADAM TRUJILLO
PO BOX 1846
TAOS NM 87571



Mailgram



1-0724258200 07/18/80 10:21 PM HX 100P WDMC
3057581303 MGN TONY TMOE AM 86 07-18 0410P WDT

REC 100 10/19/80

SENATOR JOHN MELCHER
6313 DIRKSON SENATE OFFICE BLDG
WASHINGTON DC 20510

RECEIVED JOHN MELCHER
SENATE OFFICE BLDG
WASHINGTON DC 20510

THE CONFIRMATION OF MR TOM FREDERICKS AS THE NEXT ASSISTANT SECRETARY
OF INTERIOR IS STRONGLY OPPOSED BY THE PUEBLO OF TAOS. MR FREDERICKS
IS COMMITTED TO CARRY OUT THE POLICIES OF THE CURRENT ADMINISTRATION
AND THE DEPARTMENT OF INTERIOR WHICH ARE ADVERSE TO TRIBAL
GOVERNMENT. THE PUEBLO OF TAOS HAS ABSOLUTELY NO CONFIDENCE IN THE
ABILITIES OF MR FREDERICKS TO WORK ON BEHALF OF INDIAN PEOPLE AND
THEIR INTEREST.

SINCERELY,
ADAM TRUJILLO
GOVERNOR TAOS PUEBLO

17111 EST

MGNCOMP MGN

SANTA ANA PUEBLO

Star Route Box 37
Bernalillo, New Mexico 87004

Office of the:
Governor
Lt. Governor
Secretary

Phone: (505) 867-3301
(505) 867-3302

July 11, 1980

REC'D JUL 21 1980

Senator John Melcher
6313 Dirksen Senate Office Bldg.
Washington, D.C. 20510

Dear Senator:

The Pueblo of Santa Ana is strongly opposed to the confirmation of Mr. Tom Fredricks as the next Assistant Secretary of Interior for Indian Affairs.

Mr. Fredricks has testified that he is committed to carry out the policies of the Administration and the Department of Interior. Some of these policies are adverse to tribal governments and are designed to circumvent and abrogate treaty rights and the very essence of tribal governments. We have no confidence in his ability to advocate the best interest of tribal governments, and we question his judgement on vital Indian issues.

Sincerely,

Lawrence Montoya
Governor Lawrence Montoya
Santa Ana Pueblo

GOV JOHN W BOWANNIE
PO Box 70
COCHITI NM 87041

 Mailgram

1-0000300203 07/21/80 TCS IPHYTEZ CSP WSHA
8050052244 NWM TDMT COCHITI NM 113 07-01 11334 EST

REC'D JUL 22 1980

BEN JOHN MELCHER
6513 BRIKSEN SENATE OFFICE BLDG
WASHINGTON DC 20510

"THE PUEBLO OF COCHITI IS STRONGLY OPPOSED TO THE CONFIRMATION OF MR
TON FREDERICKS AS THE NEXT ASSISTANT SECRETARY OF INTERIOR FOR INDIAN
AFFAIRS.

MR FREDERICKS HAS TESTIFIED THAT HE IS COMMITTED TO CARRY OUT THE
POLICIES OF THE ADMINISTRATION AND THE DEPARTMENT OF THE INTERIOR.
SOME OF THESE POLICIES ARE ADVERSE TO TRIBAL GOVERNMENTS AND ARE
DESIGNED TO CIRCUMVENT AND ABROGATE TREATY RIGHTS AND THE VERY
ESSENCE OF TRIBAL GOVERNMENTS. HE HAVE NO CONFIDENCE IN HIS ABILITY
TO ADVOCATE THE BEST INTEREST OF TRIBAL GOVERNMENTS, AND WE QUESTION
HIS JUDGEMENT ON VITAL INDIAN ISSUES."

SINCERELY,

JOHN W BOWANNIE GOV PUEBLO DE COCHITI

11337 EST

NBMCNRP NWM

ON SIMPLY REFER TO.

PUEBLO DE ACOMA

7-22-ATO-80C

"THE SKY CITY"

P. O. BOX 309

PUEBLO OF ACOMA, NEW MEXICO 87004

TELEPHONE (505) 882-6806

July 22, 1980

REC'D JUL 29 1980

OFFICE OF THE GOVERNOR

GOVERNOR
Raymond J. Concho, Jr.FIRST LT. GOVERNOR
Ron D. MartinezSECOND LT. GOVERNOR
Frank A. DavisFIRST FISCAL
Robert ChanSECOND FISCAL
Adrian SanchezTHIRD FISCAL
Marvin LujanSECRETARY
John S. AsencioINTERPRETER
Cecilia J. GonzalezTREASURER
Bernard L. FelipeCOUNCILMEN
Domingo Valdez, Jr.

Paul Hoots

Thomas Villa

Mauricio Pineda

Juan Ortiz

Jose C. Diaz

Carlos Chavez

Gonzalo Martinez

Jose Villa, Sr.

Adrian L. Villa

Thomas Garcia

Florencia Aragon

MAILGRAM

Senator John Melcher
6313 Dirksen Senate Office Bldg.
Washington, D.C. 20510

Dear Sir:

The Pueblo of Acoma is strongly opposed to the confirmation of Mr. Tom Fredricks as the next Assistant Secretary of the Interior for Indian Affairs.

We take the position that Pueblo tribes are socially and politically structured in such a manner that the core of its endurance rests on the foundation of the structure. Part of the foundation is the unique federal trust relationship which has existed since the founding of the United States Government. Since the inception of the federal trust relationship, there have been many adversaries who have attacked the very core of the Indian social, religious and human right to exist according to ones values and customs.

We view Mr. Fredricks as an adversary to our right to tribal self-government. On a larger scale, we view the establishment of policies by the Bureau of Indian Affairs which adversely affect our way of life as a prelude to tribal genocide. Such statements in testimony made by Mr. Fredricks reflects the support of the attitudes and mentality of the Bureau to abolish tribal rights to self-government.

Sincerely,

PUEBLO OF ACOMA

Raymond J. Concho, Jr.
Raymond J. Concho, Sr. Governor

JBS/dmt

GOVERNOR'S OFFICE
TESUQUE PUEBLO
 ROUTE 1, BOX 1
 SANTA FE, NEW MEXICO 87501

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REC'D AUG 5 1980

July 29, 1980

Senator John Melcher
 6313 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Senator Melcher:

"The Pueblo of Tesuque is strongly opposed to the confirmation of

Mr. Tom Fredricks as the next Assistant Secretary of Interior for Indian Affairs.

Mr. Fredricks has testified that he is committed to carry out the policies of the Administration and the Department of Interior. Some of these policies are adverse to tribal governments and are designed to circumvent and abrogate treaty rights and the very essence of tribal governments. We have no confidence in his ability to advocate the best interest of tribal governments, and we question his judgement on vital Indian issues."

Sincerely yours,

Herman Vigil
 Governor, Tesuque Pueblo